

# STATE OF NEW YORK

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S. 57

A. 157

## SENATE - ASSEMBLY

(Prefiled)

January 7, 2009

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IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the education law, in relation to paperwork reduction, reporting requirements, mandates concerning new programs or increased levels of service, course of study contents, reimbursement of school districts, calculation of foundation aid base, foundation amount and local contribution, apportionment of school aid and of current year approved expenditures for debt service, building aid, Medicaid reimbursement, grants, teacher tuition reimbursement, maximum class size; to amend chapter 756 of the laws of 1992 relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to apportionment and reimbursement; to amend chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, chapter 472 of the laws of 1998 amending the education law relating to the lease of school buses by school districts, in relation to school aid and extending the expiration dates; to amend chapter 57 of the laws of 2008 amending the education law and other laws relating to special apportionment for salary expenses, in relation to education apportionment; in relation to school bus driver training; in relation to the support of public libraries; to provide special apportionment for salary expenses; to provide special apportionment for public pension expenses; in relation to suballocation of certain education department accruals; in relation to the support for educational television and radio; to amend the general municipal law, in relation to withdrawal of funds and examination of reserve funds; and repealing section 805, clause (e) of subparagraph 5 of paragraph b of subdivision 1 of section 4402, subdi-

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

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vision 5 of section 4408 and subdivision 1 of section 4452 of the education law relating thereto and providing for the repeal of certain provisions upon expiration thereof (Part A); to amend the state finance law and the arts and cultural affairs law, in relation to merging the New York state theatre institute with the Nelson A. Rockefeller Empire State Plaza performing arts center corporation; to repeal certain provisions of the state finance law and the arts and cultural affairs law relating thereto; and to repeal chapter 688 of the laws of 1979 creating the Nelson A. Rockefeller Empire State Plaza performing arts center corporation (Part B); to amend the education law, in relation to good academic standing (Part C); to amend the education law, in relation to placing restrictions on eligibility to receive awards and loans; and to repeal certain provisions of such law relating thereto (Part D); to amend the education law, in relation to tuition assistance program awards for graduate school students; and to repeal certain provisions of such law relating thereto (Part E); to amend the education law, in relation to expanding the definition of income in tuition assistance program awards determinations (Part F); to amend the education law and the state finance law, in relation to procurements by the state university of New York, the city university of New York, the state university construction fund and the health care facilities of the state university of New York; and to amend the public officers law, in relation to indemnity for students (Part G); to amend the education law, in relation to tuition assistance program awards for eligible students (Part H); to repeal subdivision 5 of section 663 of the education law relating to adjustment of income for tuition assistance program awards (Part I); to amend the education law and the state finance law, in relation to the establishment of a program to provide loans to students to finance the costs of post-secondary education; to amend the public authorities law, in relation to the issuance of bonds in connection therewith; and to repeal sections 682, 683 and 684 of the education law relating thereto (Part J); to amend the education law, in relation to charging differential tuition for students who are not residents of New York state at the state university of New York and the city university of New York (Part K); to amend the education law, in relation to the optional retirement plan (Part L); to amend the tax law and the administrative code of the city of New York, in relation to reducing the state school tax credit on city personal income taxes; to repeal section 1306-b of the real property tax law and section 178 of the tax law relating to the Middle Class STAR rebate program; and to repeal section 171-q of the tax law relating to offsets taken from the basic STAR rebate amounts (Part M); to amend the real property tax law, in relation to the computation of the school tax relief (STAR) exemption (Part N); to repeal subdivision e of section 8 of the emergency tenant protection act of 1974, relating to offices of the division of housing and community renewal (Part O); to amend the executive law, in relation to establishing a youth programs block grant and to repeal certain provisions of such law relating thereto; to repeal section 420 of the executive law, relating to state aid for delinquency and youth crime prevention; and to repeal section 530 of the executive law, relating to reimbursement for juvenile detention (Part P); to amend section 28 of part C of chapter 83 of the laws of 2002 amending the executive law and other laws relating to funding for children and family services, in relation to the extension of provisions on funding of child welfare services and to amend the social services law, in relation to state reimbursement for commu-



nity optional preventive services (Part Q); to repeal subdivision 19 of section 246 of chapter 81 of the laws of 1995 amending the vehicle and traffic law and other laws relating to the enforcement of support through the suspension of driving privileges, in relation to the effectiveness of certain provisions relating thereto (Part R); to repeal subdivision 17 of section 153 and subdivision 7 of section 335-b of the social services law relating to enhanced state reimbursement for the work participation rate of local social services districts (Part S); to amend the social services law, in relation to setting an allowance for the personal needs of recipients of safety net assistance in residential care facilities (Part T); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons (Part U); to amend the social services law and the tax law, in relation to wage reporting for purposes of determining eligibility for foster children (Part V); to amend the executive law, in relation to eliminating the requirement to provide twelve month notification prior to the closure of a youth facility (Part W); to amend the social services law, in relation to the fee charged for clearances from the statewide central register (Part X); to amend the social services law, in relation to amounts of public assistance (Part Y); to amend chapter 62 of the laws of 2003 amending the state finance law and other laws relating to authorizing and directing the state comptroller to loan money to certain funds and accounts, in relation to extending the statutory authorization and the rules governing contributions to the unemployment insurance interest assessment surcharge fund (Part Z); to amend the executive law, in relation to providing for assessment of civil fines and penalties in appropriate cases (Part AA); to amend the labor law, in relation to increasing boiler inspection fees and asbestos licensing, certification and notification fees (Part BB); to amend the labor law, in relation to explosives; to amend the labor law and the general business law, in relation to misdemeanor penalties; and to amend the penal law, in relation to permits for fireworks displays (Part CC); and to amend the general business law, in relation to establishing civil penalties for uncertified crane operation (Part DD)

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

1 Section 1. This act enacts into law major components of legislation  
 2 which are necessary to implement the state fiscal plan for the 2009-2010  
 3 state fiscal year. Each component is wholly contained within a Part  
 4 identified as Parts A through DD. The effective date for each particular  
 5 provision contained within such Part is set forth in the last section of  
 6 such Part. Any provision in any section contained within a Part, includ-  
 7 ing the effective date of the Part, which makes a reference to a section  
 8 "of this act", when used in connection with that particular component,  
 9 shall be deemed to mean and refer to the corresponding section of the  
 10 Part in which it is found. Section three of this act sets forth the  
 11 general effective date of this act.

12 PART A

13 Section 1. The education law is amended by adding a new section 101-b  
 14 to read as follows:

1 § 101-b. Paperwork reduction. 1. It shall be the duty of the commis-  
 2 sioner to reduce the paperwork burden on school districts by eliminating  
 3 and avoiding duplicative reporting requirements wherever possible, and  
 4 by consolidating plans, reports and applications, where possible and  
 5 consistent with law. The commissioner shall conform state reporting and  
 6 planning requirements to federal requirements, where possible, and shall  
 7 seek federal waivers where needed to align state and federal require-  
 8 ments. Nothing in this section shall be construed to excuse the commis-  
 9 sioner or the board of regents from, or otherwise limit, reporting of  
 10 information by the department to the legislature or the governor under  
 11 any other law.

12 2. The commissioner shall reduce the number of plans, reports and  
 13 applications required by law, of school districts by establishing  
 14 streamlined and unified electronic data collection systems which elimi-  
 15 nate redundant reporting, connect planning and reporting, and which  
 16 focus on collecting data and requiring planning when necessary to assure  
 17 fiscal and programmatic accountability and compliance with law, to  
 18 foster continuous school improvement and close the gap between actual  
 19 and desired student achievement, and to assure schools provide a safe  
 20 and secure environment and/or protect the health and safety of students  
 21 and staff. Such systems shall link planning and reporting to the state  
 22 system of accountability required under federal law, providing for an  
 23 audit based assessment of risk of poor student performance, poor fiscal  
 24 performance or improper management or use of public funds. The commis-  
 25 sioner shall collaborate with selected school districts to promote  
 26 better use of required planning and reporting and shall assure that  
 27 reporting requirements include data which can be used to identify best  
 28 practices. The commissioner shall provide for the sharing of effective  
 29 planning practices with school districts and, to the extent practicable,  
 30 provide technical assistance on the use of data for planning, involve  
 31 boards of cooperative educational services and institutions of higher  
 32 education in providing technical assistance on the use of data for stra-  
 33 tegic planning to superintendents of schools, school business officials  
 34 and teachers, involve researchers in data analysis and evaluation, and,  
 35 to the extent practicable, provide technical assistance or training on  
 36 the use of data in planning to school board members.

37 § 2. Paragraph a of subdivision 2 of section 211-d of the education  
 38 law is amended by adding three new subparagraphs (vii), (viii) and (ix)  
 39 to read as follows:

40 (vii) Notwithstanding any other provision of this section to the  
 41 contrary, a school district that submitted a contract for excellence for  
 42 the two thousand eight--two thousand nine school year shall submit a  
 43 contract for excellence for the two thousand nine--two thousand ten  
 44 school year as provided herein, unless all schools in the district  
 45 achieved good standing for the two thousand eight--two thousand nine  
 46 school year. The amount to be expended on approved programs and activ-  
 47 ities in such contract for excellence shall be not less than the product  
 48 of the amount approved by the commissioner in the district's contract  
 49 for excellence for the base year, multiplied by the district's deficit  
 50 reduction assessment percentage. For purposes of this subparagraph, the  
 51 "deficit reduction assessment percentage" shall be calculated as the sum  
 52 of one plus the quotient of the school district's deficit reduction  
 53 assessment as computed pursuant to paragraph c of subdivision one of  
 54 section thirty-six hundred nine-a of this chapter divided by the total  
 55 aid for adjustment computed pursuant to clause (i) of subparagraph three

1 of paragraph c of subdivision one of section thirty-six hundred nine-a  
2 of this chapter.

3 (viii) Notwithstanding any other provision of this section to the  
4 contrary, a school district that submitted a contract for excellence for  
5 the two thousand nine--two thousand ten school year shall submit a  
6 contract for excellence for the two thousand ten--two thousand eleven  
7 school year as provided herein, unless all schools in the district  
8 achieved good standing for the two thousand nine--two thousand ten  
9 school year. The amount to be expended on approved programs and activ-  
10 ities in such contract for excellence shall be not less than the amount  
11 approved by the commissioner in the district's contract for excellence  
12 for the two thousand eight--two thousand nine school year.

13 (ix) Notwithstanding any other provision of this section to the  
14 contrary, a school district that was required to submit a contract for  
15 excellence for the two thousand seven--two thousand eight school year  
16 but did not fully expend all of its two thousand seven--two thousand  
17 eight foundation aid subject to the contract for excellence restrictions  
18 during the two thousand seven--two thousand eight school year may re-al-  
19 locate and expend such unexpended funds during the two thousand eight--  
20 two thousand nine and two thousand nine--two thousand ten school years  
21 for allowable contract for excellence programs and activities as defined  
22 in subdivision three of this section in a manner prescribed by the  
23 commissioner. For purposes of determining maintenance of effort pursuant  
24 to subparagraph (vi) of this paragraph for the two thousand eight--two  
25 thousand nine school year, funds expended pursuant to this subparagraph  
26 shall be included in the total budgeted amount approved by the commis-  
27 sioner in the district's contract for excellence for the two thousand  
28 seven--two thousand eight school year; provided that such amount shall  
29 not be counted more than once in determining maintenance of effort for  
30 the two thousand nine--two thousand ten school year or thereafter.

31 § 3. Intentionally Omitted.

32 § 4. Subdivision 1 of section 273-a of the education law, as amended  
33 by section 4 of part B of chapter 57 of the laws of 2007, is amended to  
34 read as follows:

35 1. State aid shall be provided for up to fifty percent of the total  
36 project approved costs, excluding feasibility studies, plans or similar  
37 activities, for projects for the acquisition, construction, renovation  
38 or rehabilitation, including leasehold improvements, of buildings of  
39 public libraries and library systems chartered by the regents of the  
40 state of New York or established by act of the legislature subject to  
41 the limitations provided in subdivision four of this section and upon  
42 approval by the commissioner. [For purposes of this subdivision, an  
43 amount of eight hundred thousand dollars shall be available for each  
44 calendar year] Provided however that the state liability for aid paid  
45 pursuant to this section shall be limited to funds appropriated for such  
46 purpose. Aid shall be provided on approved expenses incurred during the  
47 period commencing July first and ending June thirtieth for up to three  
48 years, or until the project is completed, whichever occurs first. Fifty  
49 percent of such aid shall be payable to each system or library upon  
50 approval of the application. Forty percent of such aid shall be payable  
51 in the next state fiscal year. The remaining ten percent shall be paya-  
52 ble upon project completion.

53 § 5. The education law is amended by adding a new section 308-a to  
54 read as follows:

55 § 308-a. Special provisions; mandates. 1. As used in this section,  
56 "mandate" means (a) any state law, rule or regulation which creates a

1 new program or requires a higher level of service for an existing  
2 program which a school district, organized either by special laws or  
3 pursuant to the provisions of a general law, is required to provide, or  
4 (b) any general law which grants a new property tax exemption or  
5 increases an existing property tax exemption which any such school  
6 district is required to provide.

7 2. In the event that a mandate which imposes a cost upon a school  
8 district is created after the adoption of a school budget, such mandate  
9 shall not be implemented until no sooner than the following year for  
10 which such school budget was adopted.

11 3. Notwithstanding subdivision two of this section, such a mandate can  
12 be imposed if:

13 (a) The mandate is provided at the option of the school district under  
14 a law, regulation, rule or order that is permissive rather than mandato-  
15 ry;

16 (b) The mandate is required by, or arises from, an executive order of  
17 the governor exercising his or her emergency powers; or

18 (c) The mandate is required by statute or executive order that imple-  
19 ments a federal law or regulation and results from costs mandated by the  
20 federal government to be borne at the local level, unless the statute or  
21 executive order imposes costs which exceed the costs mandated by the  
22 federal government.

23 § 6. Subdivision 2 of section 751 of the education law, as added by  
24 chapter 53 of the laws of 1984, is amended to read as follows:

25 2. A software program, for the purposes of this article shall mean (a)  
26 a computer program which a pupil is required to use as a learning aid in  
27 a particular class in the school the pupil legally attends, or (b) for  
28 expenses incurred after July first, two thousand nine, any content-based  
29 instructional materials in an electronic format that are aligned with  
30 state standards which are accessed or delivered through the internet  
31 based on a subscription model. Such electronic format materials may  
32 include a variety of media assets and learning tools, including video,  
33 audio, images, teacher guides, assessments, and student access capabili-  
34 ties as such terms are defined in the regulations of the commissioner.

35 § 7. Section 805 of the education law is REPEALED.

36 § 8. Subdivision 2 of section 806 of the education law, as amended by  
37 chapter 946 of the laws of 1973, is amended to read as follows:

38 2. The regents shall determine the subjects to be included in such  
39 courses of instruction in highway safety and traffic regulation includ-  
40 ing bicycle safety, and the period of instruction in each of the grades  
41 in such subjects. [They shall adopt rules providing for attendance upon  
42 such instruction and for such other matters as are required for carrying  
43 into effect the teaching of the courses of instruction prescribed by  
44 this section. The commissioner of education shall be responsible for  
45 the enforcement of such section and shall cause to be inspected and  
46 supervise the instruction to be given in such subjects. The commissioner  
47 may, in his discretion, cause all or a portion of the public school  
48 money to be apportioned to a district or city to be withheld for failure  
49 of the school authorities of such district or city to provide instruc-  
50 tion in such courses and to compel attendance upon such instruction, as  
51 herein prescribed, and for a noncompliance with the rules of the regents  
52 adopted as herein provided.]

53 § 9. Subdivision 5 of section 2802 of the education law, as added by  
54 chapter 181 of the laws of 2000, is amended to read as follows:

55 5. By [January] April first of each year, the commissioner shall  
56 report to the governor, the legislature and the regents concerning the

1 prevalence of violence and disruptive incidents in the public schools[,  
2 and the effectiveness of school programs undertaken to reduce violence  
3 and assure the safety and security of students and school personnel].  
4 The report shall summarize the information available from the incident  
5 reporting system, and [identify specifically the schools and school  
6 districts with the least and greatest incidence of violent and disrupt-  
7 tive incidents, and the least and most improvement since the previous  
8 year or years] compare the incidence of violent and disruptive incidents  
9 of schools and school districts and boards with other schools and school  
10 districts and boards based on similarity in size and grade levels and  
11 other characteristics, including student need and resources, as deter-  
12 mined by the commissioner. The report shall also, to the extent possi-  
13 ble, relate the results available from the incident reporting system,  
14 together with such other analysis and information as the commissioner  
15 determines is appropriate, to the effectiveness of school violence meas-  
16 ures undertaken by participating schools and school districts, including  
17 the school codes and school safety plans required by sections twenty-  
18 eight hundred one and twenty-eight hundred one-a of this article.

19 § 10. Subparagraph 4 of paragraph d of subdivision 5 of section 3202  
20 of the education law, as amended by section 3 of part A-1 of chapter 58  
21 of the laws of 2006, is amended to read as follows:

22 (4) The education department shall reimburse the school district in  
23 which such intermediate care facility is located for the full cost of  
24 all [nonfederally reimbursable] services, which shall, notwithstanding  
25 any inconsistent provision of law, include transportation services  
26 provided pursuant to a contract authorized by this paragraph. Provided,  
27 however, that notwithstanding any other law, rule or regulation to the  
28 contrary, that no reimbursement shall be payable pursuant to this  
29 subparagraph for due process costs incurred on or after July first, two  
30 thousand nine. Such reimbursement shall be for the period from September  
31 first through June thirtieth, and state reimbursement for July and  
32 August programs shall be in accordance with subdivision one of section  
33 forty-four hundred eight of this chapter. The provisions of subdivision  
34 two of such section forty-four hundred eight shall apply to all July and  
35 August programs provided pursuant to this section.

36 § 10-a. Section 3211 of the education law is amended by adding a new  
37 subdivision 5 to read as follows:

38 5. Notwithstanding any other law, rule or regulation to the contrary,  
39 a nonpublic elementary or secondary school shall not be required to take  
40 attendance more than once a day or to have the administrator in charge  
41 of the nonpublic school review attendance records of the nonpublic  
42 school or to otherwise comply with the requirements of the regulations  
43 of the commissioner relating to comprehensive attendance policies. The  
44 commissioner shall require nonpublic elementary and secondary schools to  
45 maintain records of attendance in accordance with the standards and  
46 procedures in effect for the two thousand two--two thousand three school  
47 year.

48 § 10-b. Notwithstanding the provisions of chapter 507 of the laws of  
49 1974 or any other provision of law to the contrary, for aid payable in  
50 the two thousand nine--two thousand ten school year and thereafter a  
51 nonpublic elementary or secondary school's entitlement for an apportion-  
52 ment for the actual cost of pupil attendance reporting pursuant to  
53 section 3 of chapter 507 of the laws of 1974 for expenses incurred in  
54 the 2003--2004 school year and thereafter shall be determined in accord-  
55 ance with this section. The commissioner of education shall not be  
56 authorized to pay any claim for pupil attendance reporting expenses

1 incurred prior to July 1, 2007 and the amounts paid prior to the effec-  
2 tive date of this section shall be in full satisfaction of the state's  
3 obligation to reimburse nonpublic schools for actual costs incurred for  
4 pupil attendance reporting during such period and are hereby ratified,  
5 validated and confirmed. For pupil attendance reporting expenses  
6 incurred in the 2007--2008 school year and thereafter, the apportionment  
7 for pupil attendance reporting expenses shall be limited to reimburse-  
8 ment for the actual cost of expenses incurred to implement subdivision 5  
9 of section 3211 of the education law, as added by section ten-a of this  
10 act.

11 § 11. Paragraph j of subdivision 1 of section 3602 of the education  
12 law is amended by adding a new subparagraph (iii) to read as follows:

13 (iii) The total foundation aid base for aid payable in the two thou-  
14 sand seven--two thousand eight school year and thereafter, and for aid  
15 calculations for subsequent school years based on aid payable in such  
16 school years, shall be deemed final and not subject to change on or  
17 after July first of the school year following the last school year in  
18 which the commissioner may last accept and certify for payment any addi-  
19 tional claim for such school year pursuant to paragraph a of subdivision  
20 five of section thirty-six hundred four of this article.

21 § 12. Intentionally Omitted.

22 § 13. The opening paragraph, subparagraph 1 of paragraph a and para-  
23 graphs b and b-1 of subdivision 4 of section 3602 of the education law,  
24 as amended by section 14 of part B of chapter 57 of the laws of 2008,  
25 are amended to read as follows:

26 In addition to any other apportionment pursuant to this chapter, a  
27 school district, other than a special act school district as defined in  
28 subdivision eight of section four thousand one of this chapter, shall be  
29 eligible for total foundation aid equal to the product of total aidable  
30 foundation pupil units multiplied by the district's selected foundation  
31 aid, which shall be the greater of five hundred dollars (\$500) or foun-  
32 dation formula aid, provided, however that for the two thousand seven--  
33 two thousand eight through [two thousand nine--two thousand ten] two  
34 thousand eight--two thousand nine and two thousand eleven--two thousand  
35 twelve through two thousand twelve--two thousand thirteen school years,  
36 no school district shall receive total foundation aid in excess of the  
37 sum of the total foundation aid base for aid payable in the two thousand  
38 seven--two thousand eight school year computed pursuant to subparagraph  
39 (i) of paragraph j of subdivision one of this section, plus the phase-in  
40 foundation increase computed pursuant to paragraph b of this subdivi-  
41 sion, and provided further that total foundation aid shall not be less  
42 than the product of the total foundation aid base computed pursuant to  
43 paragraph j of subdivision one of this section and one hundred three  
44 percent, nor more than the product of such total foundation aid base and  
45 one hundred fifteen percent, and provided further that for the two thou-  
46 sand nine--two thousand ten and two thousand ten--two thousand eleven  
47 school years, each school district shall receive total foundation aid in  
48 the amount set forth for such school district as "FOUNDATION AID" under  
49 the heading "2008-09 BASE YEAR AIDS" in the school aid computer listing  
50 produced by the commissioner in support of the executive budget request  
51 for the two thousand nine--two thousand ten school year and entitled  
52 "BT112-1". Total aidable foundation pupil units shall be calculated  
53 pursuant to paragraph g of subdivision two of this section. For the  
54 purposes of calculating aid pursuant to this subdivision, aid for the  
55 city school district of the city of New York shall be calculated on a  
56 citywide basis.



1 (1) The foundation amount shall reflect the average per pupil cost of  
2 general education instruction in successful school districts, as deter-  
3 mined by a statistical analysis of the costs of special education and  
4 general education in successful school districts, provided that the  
5 foundation amount shall be adjusted annually to reflect the percentage  
6 increase in the consumer price index as computed pursuant to section two  
7 thousand twenty-two of this chapter, provided that for the two thousand  
8 eight--two thousand nine school year, for the purpose of such adjust-  
9 ment, the percentage increase in the consumer price index shall be  
10 deemed to be two and nine-tenths percent (0.029), and provided further  
11 that the foundation amount for the two thousand seven--two thousand  
12 eight school year shall be five thousand two hundred fifty-eight  
13 dollars, and provided further that for the two thousand seven--two thou-  
14 sand eight through [two thousand nine--two thousand ten] two thousand  
15 thirteen--two thousand fourteen school years, such foundation amount  
16 shall be further adjusted by the phase-in foundation percent established  
17 pursuant to paragraph b of this subdivision.

18 b. Phase-in foundation increase. (1) The phase-in foundation increase  
19 shall equal the product of the phase-in foundation increase factor  
20 multiplied by the greater of (i) the positive difference, if any, of (A)  
21 the product of the total aidable foundation pupil units multiplied by  
22 the district's selected foundation aid less (B) the total foundation aid  
23 base for aid payable in the two thousand seven--two thousand eight  
24 school year computed pursuant to subparagraph (i) of paragraph j of  
25 subdivision one of this section or (ii) the product of the phase-in  
26 due-minimum percent multiplied by the total foundation aid base for aid  
27 payable in the two thousand seven--two thousand eight school year  
28 computed pursuant to subparagraph (i) of paragraph j of subdivision one  
29 of this section.

30 (2) For the two thousand seven--two thousand eight school year, the  
31 phase-in foundation percent shall equal one hundred seven and sixty-  
32 eight hundredths percent (1.0768), the phase-in foundation increase  
33 factor shall equal twenty percent (0.20), and the phase-in due-minimum  
34 percent shall equal twelve and fifty-five hundredths percent (0.1255);

35 for the two thousand eight--two thousand nine school year, the phase-  
36 in foundation percent shall equal one hundred five and twenty-six  
37 hundredths percent (1.0526), the phase-in foundation increase factor  
38 shall equal thirty-seven and one-half percent (0.375), and the phase-in  
39 due-minimum percent shall equal twelve and fifty-five hundredths percent  
40 (0.1255);

41 for the two thousand nine--two thousand ten school year, the phase-in  
42 foundation percent shall equal one hundred two and five tenths percent  
43 (1.025), the phase-in foundation increase factor shall equal [sixty-  
44 five] thirty-seven and one-half percent [(0.65)] (0.375), and the phase-  
45 in due-minimum percent shall equal twelve and fifty-five hundredths  
46 percent (0.1255);

47 for the two thousand ten--two thousand eleven school year, the phase-  
48 in foundation percent shall equal one hundred ten and thirty-seven  
49 hundredths percent (1.1037), the phase-in foundation increase factor  
50 shall equal thirty-seven and one-half percent (0.375), and the phase-in  
51 due-minimum percent shall equal twelve and fifty-five hundredths percent  
52 (0.1255);

53 for the two thousand eleven--two thousand twelve school year, the  
54 phase-in foundation percent shall equal one hundred seven and sixty-  
55 eight hundredths percent (1.0768), the phase-in foundation increase  
56 factor shall equal fifty-three and one-tenth percent (0.531), and the

1 phase-in due-minimum percent shall equal twelve and fifty-five  
2 hundredths percent (0.1255);

3 for the two thousand twelve--two thousand thirteen school year, the  
4 phase-in foundation percent shall equal one hundred five and six  
5 hundredths percent (1.0506), the phase-in foundation increase factor  
6 shall equal sixty-eight and seven-tenths percent (0.687), and the phase-  
7 in due-minimum percent shall equal twelve and fifty-five hundredths  
8 percent (0.1255);

9 for the two thousand thirteen--two thousand fourteen school year, the  
10 phase-in foundation percent shall equal one hundred two and five  
11 hundredths percent (1.0250), the phase-in foundation increase factor  
12 shall equal eighty-four and three-tenths percent (0.843), and the phase-  
13 in due-minimum percent shall equal twelve and fifty-five hundredths  
14 percent (0.1255).

15 b-1. Notwithstanding any other provision of law to the contrary, for  
16 the two thousand seven--two thousand eight through [two thousand ten--  
17 two thousand eleven] two thousand fourteen--two thousand fifteen school  
18 years, the additional amount payable to each school district pursuant to  
19 this subdivision in the current year as total foundation aid, after  
20 deducting the total foundation aid base, shall be deemed a state grant  
21 in aid identified by the commissioner for general use for purposes of  
22 sections seventeen hundred eighteen and two thousand twenty-three of  
23 this chapter.

24 § 14. The closing paragraph of subdivision 5-a of section 3602 of the  
25 education law, as added by section 15-a of part B of chapter 57 of the  
26 laws of 2008, is amended to read as follows:

27 For the two thousand eight--two thousand nine school year, each school  
28 district shall be entitled to an apportionment equal to the product of  
29 fifteen percent and the additional apportionment computed pursuant to  
30 this subdivision for the two thousand seven--two thousand eight school  
31 year. For the two thousand nine--two thousand ten and two thousand ten-  
32 two thousand eleven school years, each school district shall be enti-  
33 led to an apportionment equal to the amount set forth for such school  
34 district as "SUPPLEMENTAL PUB EXCESS COST" under the heading "2008-09  
35 BASE YEAR AIDS" in the school aid computer listing produced by the  
36 commissioner in support of the executive budget request for the two  
37 thousand nine--two thousand ten school year and entitled "BT112-1".

38 § 15. Subclause (ii) of clause b of subparagraph 2 of paragraph e of  
39 subdivision 6 of section 3602 of the education law, as amended by  
40 section 16 of part B of chapter 57 of the laws of 2008, is amended to  
41 read as follows:

42 (ii) For any assumed unpaid principal or the equivalent amount in the  
43 case of a lease-purchase agreement or its equivalent, remaining as of  
44 the first day of July, two thousand two pursuant to subparagraph one of  
45 this paragraph, the commissioner shall establish a new assumed amorti-  
46 zation commencing on such date for the unexpired term of the original  
47 assumed amortization as of such date. Such assumed amortization shall  
48 provide for equal semiannual payments of principal and interest based on  
49 the interest rate applied to the original amortization as established by  
50 the commissioner pursuant to subparagraph one of this paragraph.  
51 Provided, however, that, notwithstanding any provision of law to the  
52 contrary, for aid payable in the two thousand nine--two thousand ten  
53 school year and thereafter, the total [of] apportionment for such  
54 current year approved expenditures for debt service shall not exceed the  
55 estimated apportionment as computed based on the estimated current year  
56 approved expenditures for debt service on file with the commissioner as

1 of the date upon which an electronic data file was created for the  
 2 purposes of compliance with paragraph b of subdivision twenty-one of  
 3 section three hundred five of this chapter on November fifteenth of the  
 4 base year, and the positive remainder, if any, of such [debt service or  
 5 lease-purchase or other annual payments under a lease-purchase agreement  
 6 or an equivalent agreement that would be incurred during the current  
 7 year based on an assumed amortization to be established by the commis-  
 8 sioner pursuant to this subparagraph of the approved project costs to be  
 9 financed] apportionment less such estimated [current year approved  
 10 expenditures for debt service on file with the commissioner as of the  
 11 date upon which an electronic data file was created for the purposes of  
 12 compliance with paragraph b of subdivision twenty-one of section three  
 13 hundred five of this chapter on November fifteenth of the base year]  
 14 apportionment shall not be an apportionment payable in the current year  
 15 [approved expenditures for debt service], but shall be deemed to be an  
 16 apportionment payable for debt service on new bonds and capital notes  
 17 aidable in July following the current year as defined in clause (b) of  
 18 subparagraph one of paragraph f of this subdivision. Such estimate shall  
 19 be done in consultation with the commissioner.

20 § 16. Paragraph e of subdivision 6 of section 3602 of the education  
 21 law is amended by adding a new subparagraph 8 to read as follows:

22 (8) Notwithstanding any other provision of the law to the contrary,  
 23 where, during the period of assumed amortization relating to a project  
 24 for the construction, acquisition, reconstruction, rehabilitation or  
 25 improvement of a school building, the school building is sold or owner-  
 26 ship is otherwise transferred to an entity other than the school  
 27 district or city and such transfer results in the building no longer  
 28 being used as a public elementary or secondary school, the commissioner  
 29 shall re-compute the building aid, if any, payable for such project  
 30 pursuant to this subparagraph, except to the extent such re-computation  
 31 would conflict with the provisions of section twenty-seven hundred nine-  
 32 ty-nine-tt of the public authorities law. The commissioner shall deduct  
 33 the revenues received by the school district or city as a result of such  
 34 sale or transfer from the approved total project cost and, based on such  
 35 adjusted project cost, establish a new assumed amortization for the  
 36 remaining useful life of the project under the applicable provisions of  
 37 this paragraph.

38 § 17. Paragraph b of subdivision 8 of section 3602 of the education  
 39 law, as amended by section 16 of part B of chapter 57 of the laws of  
 40 2007, is amended to read as follows:

41 b. District plans of service. Any school district receiving an addi-  
 42 tional apportionment pursuant to subdivision ten of this section for  
 43 pupils in career education programs or a payment in lieu of such appor-  
 44 tionment or having a public excess cost aid setaside pursuant to subdi-  
 45 vision four of this section shall keep on file and make available for  
 46 public inspection and review by the commissioner an acceptable plan of  
 47 service describing the student outcomes expected from implementation of  
 48 the proposed plan, provided that such plan may be incorporated into a  
 49 school district's district-wide comprehensive plan. The plan of service  
 50 [submitted by] of a school district receiving an additional apportion-  
 51 ment pursuant to this section for pupils with disabilities shall also  
 52 describe how such district intends to ensure that all instructional  
 53 materials to be used in the schools of such district will be made avail-  
 54 able in a usable alternative format for each student with a disability  
 55 and for each student who is a qualified individual with a disability, at  
 56 the same time as such instructional materials are available to non-disa-

1 bled students, provided that such plan may incorporate by reference the  
2 alternative format plans developed pursuant to subdivision twenty-nine-a  
3 of section sixteen hundred four, subdivision four-a of section seventeen  
4 hundred nine, subdivision seven-a of section twenty-five hundred three  
5 or subdivision seven-a of section twenty-five hundred fifty-four of this  
6 chapter. Such plans shall be in a form prescribed by the commissioner,  
7 and except as heretofore provided, shall have the content prescribed by  
8 the commissioner. The commissioner may, from time to time, require  
9 amendments of such plans as deemed to be necessary and appropriate to  
10 further the educational welfare of the pupils involved.

11 § 18. Subdivision 12 of section 3602 of the education law is amended  
12 by adding a new closing paragraph to read as follows:

13 For the two thousand nine--two thousand ten and two thousand ten--two  
14 thousand eleven school years, each school district shall be entitled to  
15 an apportionment equal to the amount set forth for such school district  
16 as "EDUCATION GRANTS, ACADEMIC EN" under the heading "2008-09 BASE YEAR  
17 AIDS" in the school aid computer listing produced by the commissioner in  
18 support of the executive budget request for the two thousand nine--two  
19 thousand ten school year and entitled "BT112-1", and such apportionment  
20 shall be deemed to satisfy the state obligation to provide an apportion-  
21 ment pursuant to subdivision eight of section thirty-six hundred forty-  
22 one of this article.

23 § 19. The opening paragraph of subdivision 16 of section 3602 of the  
24 education law, as amended by section 18 of part B of chapter 57 of the  
25 laws of 2008, is amended to read as follows:

26 Each school district shall be eligible to receive a high tax aid  
27 apportionment in the two thousand eight--two thousand nine school year,  
28 which shall equal the greater of (i) the sum of the tier 1 high tax aid  
29 apportionment, the tier 2 high tax aid apportionment and the tier 3 high  
30 tax aid apportionment or (ii) the product of the apportionment received  
31 by the school district pursuant to this subdivision in the two thousand  
32 seven--two thousand eight school year, multiplied by the due-minimum  
33 factor, which shall equal, for districts with an alternate pupil wealth  
34 ratio computed pursuant to paragraph b of subdivision three of this  
35 section that is less than two, seventy percent (0.70), and for all other  
36 districts, fifty percent (0.50). Each school district shall be eligible  
37 to receive a high tax aid apportionment in the two thousand nine--two  
38 thousand ten and two thousand ten--two thousand eleven school years in  
39 the amount set forth for such school district as "HIGH TAX AID" under  
40 the heading "2008-09 BASE YEAR AIDS" in the school aid computer listing  
41 produced by the commissioner in support of the executive budget request  
42 for the two thousand nine--two thousand ten school year and entitled  
43 "BT112-1".

44 § 20. Intentionally omitted.

45 § 21. The opening paragraph of subdivision 10 of section 3602-e of  
46 the education law, as amended by section 22 of part B of chapter 57 of  
47 the laws of 2008, is amended to read as follows:

48 Notwithstanding any provision of law to the contrary, for aid payable  
49 in the two thousand eight--two thousand nine school year, the grant to  
50 each eligible school district for universal prekindergarten aid shall be  
51 computed pursuant to this subdivision, and for the two thousand nine--  
52 two thousand ten and two thousand ten--two thousand eleven school years,  
53 each school district shall be eligible for a maximum grant equal to the  
54 amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN"  
55 under the heading "2008-09 BASE YEAR AIDS" in the school aid computer  
56 listing produced by the commissioner in support of the executive budget

1 request for the two thousand nine--two thousand ten school year and  
 2 entitled "BT112-1", provided, however, that in the case of a district  
 3 implementing programs for the first time or implementing expansion  
 4 programs in the two thousand eight--two thousand nine school year where  
 5 such programs operate for a minimum of ninety days in any one school  
 6 year as provided in section 151-1.4 of the regulations of the commis-  
 7 sioner such school district shall be eligible for a maximum grant equal  
 8 to the amount computed pursuant to paragraph a of subdivision nine of  
 9 this section in the two thousand eight--two thousand nine school year,  
 10 and provided further that the maximum grant shall not exceed the total  
 11 actual grant expenditures incurred by the school district as approved by  
 12 the commissioner.

13 § 22. Paragraphs a and b of subdivision 5 of section 3604 of the  
 14 education law, paragraph a as amended by chapter 161 of the laws of 2005  
 15 and paragraph b as amended by section 59 of part A of chapter 436 of the  
 16 laws of 1997, are amended to read as follows:

17 a. State aid adjustments. All errors or omissions in the apportionment  
 18 shall be corrected by the commissioner. Whenever a school district has  
 19 been apportioned less money than that to which it is entitled, the  
 20 commissioner may allot to such district the balance to which it is enti-  
 21 tled. Whenever a school district has been apportioned more money than  
 22 that to which it is entitled, the commissioner may, by an order, direct  
 23 such moneys to be paid back to the state to be credited to the general  
 24 fund local assistance account for state aid to the schools, or may  
 25 deduct such amount from the next apportionment to be made to said  
 26 district, provided, however, that, upon notification of excess payments  
 27 of aid for which a recovery must be made by the state through deduction  
 28 of future aid payments, a school district may request that such excess  
 29 payments be recovered by deducting such excess payments from the  
 30 payments due to such school district and payable in the month of June in  
 31 (i) the school year in which such notification was received and (ii) the  
 32 two succeeding school years, provided further that there shall be no  
 33 interest penalty assessed against such district or collected by the  
 34 state. Such request shall be made to the commissioner in such form as  
 35 the commissioner shall prescribe, and shall be based on documentation  
 36 that the total amount to be recovered is in excess of one percent of the  
 37 district's total general fund expenditures for the preceding school  
 38 year. The amount to be deducted in the first year shall be the greater  
 39 of (i) the sum of the amount of such excess payments that is recognized  
 40 as a liability due to other governments by the district for the preced-  
 41 ing school year and the positive remainder of the district's unreserved  
 42 fund balance at the close of the preceding school year less the product  
 43 of the district's total general fund expenditures for the preceding  
 44 school year multiplied by five percent, or (ii) one-third of such excess  
 45 payments. The amount to be recovered in the second year shall equal the  
 46 lesser of the remaining amount of such excess payments to be recovered  
 47 or one-third of such excess payments, and the remaining amount of such  
 48 excess payments shall be recovered in the third year. Provided further  
 49 that, notwithstanding any other provisions of this subdivision, any  
 50 pending payment of moneys due to such district as a prior year adjust-  
 51 ment payable pursuant to paragraph c of this subdivision for aid claims  
 52 that had been previously paid as current year aid payments in excess of  
 53 the amount to which the district is entitled and for which recovery of  
 54 excess payments is to be made pursuant to this paragraph, shall be  
 55 reduced at the time of actual payment by any remaining unrecovered  
 56 balance of such excess payments, and the remaining scheduled deductions

1 of such excess payments pursuant to this paragraph shall be reduced by  
2 the commissioner to reflect the amount so recovered. [The commissioner  
3 shall certify no payment to a school district based on a claim submitted  
4 later than three years after the close of the school year in which such  
5 payment was first to be made. For claims for which payment is first to  
6 be made in the nineteen hundred ninety-six--ninety-seven school year,  
7 the commissioner shall certify no payment to a school district based on  
8 a claim submitted later than two years after the close of such school  
9 year.] For claims for which payment is first to be made [in] prior to  
10 the [nineteen hundred ninety-seven--ninety-eight] two thousand eight--  
11 two thousand nine school year [and thereafter], the commissioner shall  
12 certify no payment to a school district based on a claim submitted later  
13 than one year after the close of such school year. For claims for which  
14 payment is first to be made in the two thousand eight--two thousand nine  
15 school year, the commissioner shall certify no payment to a school  
16 district in excess of the payment computed based on an electronic data  
17 file used to produce the school aid computer listing produced by the  
18 commissioner in support of the executive budget request for the two  
19 thousand nine--two thousand ten school year and entitled "BT112-1". For  
20 claims for which payment is first to be made in the two thousand nine--  
21 two thousand ten school year and thereafter, the commissioner shall  
22 certify no payment to a school district in excess of the payment  
23 computed based on an electronic data file used to produce the school aid  
24 computer listing produced by the commissioner in support of the execu-  
25 tive budget request, and shall certify no payment to a school district  
26 based on a claim submitted later than the date upon which an electronic  
27 data file was created for the purposes of computing the June amount  
28 pursuant to subparagraph two of paragraph b of subdivision one of  
29 section thirty-six hundred nine-a of this article, provided that in the  
30 case of a district implementing programs for the first time or imple-  
31 menting expansion programs in the two thousand eight--two thousand nine  
32 school year, where such programs operate for a minimum of ninety days in  
33 any one school year as provided in section 151-1.4 of the regulations of  
34 the commissioner, the commissioner shall certify no payment to such  
35 district pursuant to section thirty-six hundred two-e of this part in  
36 excess of the amount computed for the two thousand eight--two thousand  
37 nine school year pursuant to paragraph a of subdivision nine of such  
38 section thirty-six hundred two-e of this part, and shall certify no  
39 payment to a school district based on a claim submitted later than the  
40 thirtieth day of September immediately following the school year in  
41 which such program was operated. Provided, however, no payments shall be  
42 barred or reduced where such payment is required as a result of a final  
43 audit of the state. [It is further provided that, until June thirtieth,  
44 nineteen hundred ninety-six, the commissioner may grant a waiver from  
45 the provisions of this section for any school district if it is in the  
46 best educational interests of the district pursuant to guidelines devel-  
47 oped by the commissioner and approved by the director of the budget.]  
48 b. Claims resulting from court orders or judgments. [Any] For claims  
49 for which payment is first to be made prior to the two thousand eight--  
50 two thousand nine school year, any payment which would be due as the  
51 result of a court order or judgment shall not be barred, provided that,  
52 commencing January first, nineteen hundred ninety-six, such court order  
53 or judgment and any other data required shall be filed with the comp-  
54 troller within one year from the date of the court order or judgment,  
55 and provided further that the commissioner shall certify no payment to a  
56 school district for a specific school year that is based on a claim that



1 results from a court order or judgement so filed with the comptroller  
2 unless the total value of such claim, as determined by the commissioner,  
3 is greater than one percent of the school district's total revenues from  
4 state sources as previously recorded in the general fund and reported to  
5 the comptroller in the annual financial report of the school district  
6 for such school year.

7 § 23. The opening paragraph of section 3609-a of the education law,  
8 as amended by section 25 of part B of chapter 57 of the laws of 2008, is  
9 amended to read as follows:

10 For aid payable in the two thousand seven--two thousand eight [school  
11 year] and [thereafter] two thousand eight--two thousand nine school  
12 years, "moneys apportioned" shall mean the lesser of (i) the sum of one  
13 hundred percent of the respective amount set forth for each school  
14 district as payable pursuant to this section in the school aid computer  
15 listing for the current year produced by the commissioner in support of  
16 the budget which includes the appropriation for the general support for  
17 public schools for the prescribed payments and individualized payments  
18 due prior to April first for the current year plus the apportionment  
19 payable during the current school year pursuant to subdivision six-a and  
20 subdivision fifteen of section thirty-six hundred two of this part minus  
21 any reductions to current year aids pursuant to subdivision seven of  
22 section thirty-six hundred four of this part or any deduction from  
23 apportionment payable pursuant to this chapter for collection of a  
24 school district basic contribution as defined in subdivision eight of  
25 section forty-four hundred one of this chapter, less any grants provided  
26 pursuant to subparagraph two-a of paragraph b of subdivision four of  
27 section ninety-two-c of the state finance law, less any grants provided  
28 pursuant to subdivision twelve of section thirty-six hundred forty-one  
29 of this article, or (ii) the apportionment calculated by the commission-  
30 er based on data on file at the time the payment is processed; provided  
31 however, that for the purposes of any payments made pursuant to this  
32 section prior to the first business day of June of the current year,  
33 moneys apportioned shall not include any aids payable pursuant to subdi-  
34 visions six and fourteen, if applicable, of section thirty-six hundred  
35 two of this part as current year aid for debt service on bond antic-  
36 ipation notes and/or bonds first issued in the current year or any aids  
37 payable for full-day kindergarten for the current year pursuant to  
38 subdivision nine of section thirty-six hundred two of this part. The  
39 definitions of "base year" and "current year" as set forth in subdivi-  
40 sion one of section thirty-six hundred two of this part shall apply to  
41 this section. For aid payable in the two thousand eight--two thousand  
42 nine school year, reference to such "school aid computer listing for the  
43 current year" shall mean the printouts entitled "SA0809". For aid paya-  
44 ble in the two thousand nine--two thousand ten school year and thereaft-  
45 er, "moneys apportioned" shall mean the lesser of (i) the sum of one  
46 hundred percent of the respective amount set forth for each school  
47 district as payable pursuant to this section in the school aid computer  
48 listing for the base year produced by the commissioner in support of the  
49 executive budget request which includes the appropriation for the gener-  
50 al support for public schools for the prescribed payments and individ-  
51 ualized payments due prior to April first for the current year plus the  
52 apportionment payable during the current school year pursuant to subdi-  
53 visions six-a and fifteen of section thirty-six hundred two of this part  
54 minus any reductions to current year aids pursuant to subdivision seven  
55 of section thirty-six hundred four of this part or any deduction from  
56 apportionment payable pursuant to this chapter for collection of a



1 school district basic contribution as defined in subdivision eight of  
 2 section forty-four hundred one of this chapter, less any grants provided  
 3 pursuant to subparagraph two-a of paragraph b of subdivision four of  
 4 section ninety-two-c of the state finance law, less any grants provided  
 5 pursuant to subdivision twelve of section thirty-six hundred forty-one  
 6 of this article, or (ii) the apportionment calculated by the commission-  
 7 er based on data on file at the time the payment is processed; provided  
 8 however, that for the purposes of any payments made pursuant to this  
 9 section prior to the first business day of June of the current year,  
 10 moneys apportioned shall not include any aids payable pursuant to subdi-  
 11 visions six and fourteen, if applicable, of section thirty-six hundred  
 12 two of this part as current year aid for debt service on bond antic-  
 13 ipation notes and/or bonds first issued in the current year or any aids  
 14 payable for full-day kindergarten for the current year pursuant to  
 15 subdivision nine of section thirty-six hundred two of this part. The  
 16 definitions of "base year" and "current year" as set forth in subdivi-  
 17 sion one of section thirty-six hundred two of this part shall apply to  
 18 this section.

19 § 24. Subdivision 1 of section 3609-a of the education law is amended  
 20 by adding a new paragraph c to read as follows:

21 c. Deficit reduction assessment for two thousand nine--two thousand  
 22 ten. (1) Notwithstanding any other provision of law, the state comp-  
 23 troller shall reduce payments due to each district pursuant to this  
 24 section by an amount equal to the deficit reduction assessment computed  
 25 for such district, and such amount shall be deducted from the fixed fall  
 26 payment due the district pursuant to subparagraphs two, three and four  
 27 of paragraph a of this subdivision and the individualized payments due  
 28 the district pursuant to paragraph b of this subdivision, and shall be  
 29 deducted on a chronological basis starting with the earliest payment due  
 30 the district, and finally, if the reduction is greater than the sum of  
 31 the amounts that would have been paid to the district pursuant to such  
 32 subparagraphs two, three and four of paragraph a and such subparagraph  
 33 b, the remainder of the reduction shall be withheld from the payments  
 34 scheduled to be made to the district or on behalf of the school district  
 35 to the teacher's retirement system in the fall of the two thousand nine-  
 36 -two thousand ten school year, and provided further that the amount of  
 37 such reduction shall be deemed to have been paid to the district pursu-  
 38 ant to this section for the school year in which such deduction is made.  
 39 The commissioner shall compute such deficit reduction assessment amount  
 40 and shall provide a schedule of such reductions in payments to the state  
 41 comptroller, the director of the budget, the chair of the senate finance  
 42 committee and the chair of the assembly ways and means committee.

43 (2) The deficit reduction assessment for two thousand nine--two thou-  
 44 sand ten school year shall be computed as follows, based on data used by  
 45 the commissioner for the purposes of producing a school aid computer  
 46 listing in support of the executive budget request for the two thousand  
 47 nine--two thousand ten school year and entitled "BT112-1".

48 (i) The percentage reduction shall be the sum of (A) the product of  
 49 the total aid for adjustment, multiplied by two and eighty-five one  
 50 hundredths percent (0.0285), and (B) the product of six hundred ninety-  
 51 eight dollars (\$698.00) multiplied by the reduction factor, multiplied  
 52 by the public school district enrollment for the base year computed  
 53 pursuant to subparagraph two of paragraph n of subdivision one of such  
 54 section thirty-six hundred two of this part, provided, however, that  
 55 such percentage reduction shall not be less than the product of three  
 56 percent (0.03) multiplied by such total aid for adjustment, and not more



1 than thirteen percent (0.13) multiplied by such total aid for adjust-  
2 ment.

3 (ii) The tax effort reduction shall be the product of the total aid  
4 for adjustment, multiplied by the quotient of thirteen percent (0.13)  
5 divided by the quotient of the tax effort ratio divided by three and  
6 five-tenths percent (0.035), provided, however, that such tax effort  
7 reduction shall not be less than the product of five percent (0.05)  
8 multiplied by such total aid for adjustment, and not more than thirteen  
9 percent (0.13) multiplied by such total aid for adjustment.

10 (iii) The TGFE check shall be the product of two and one-half percent  
11 (0.025) and the total general fund expenditures of such district in the  
12 base year.

13 (iv) The deficit reduction assessment for a district shall equal (A)  
14 the district's percentage reduction, provided, however, that in the case  
15 of a district with a tax effort ratio greater than three and one-half  
16 percent (0.035) and a combined wealth ratio for total foundation aid  
17 that is less than four (4.0), the deficit reduction assessment for a  
18 district shall equal the lesser of the percentage reduction and the tax  
19 effort reduction, and further provided, (B) in the case of a district  
20 determined to be a high need school district pursuant to clause (c) of  
21 subparagraph two of paragraph c of subdivision six of section thirty-six  
22 hundred two of this part for the school aid computer listing produced by  
23 the commissioner in support of the enacted budget for the two thousand  
24 seven--two thousand eight school year and entitled "SA0708", the deficit  
25 reduction assessment for a district shall equal the lesser of the TGFE  
26 check and the deficit reduction assessment selected pursuant to  
27 subclause (A) of this clause.

28 (3) For the purposes of such computation,

29 (i) "total aid for adjustment" shall mean the sum of the amounts set  
30 forth for each school district as "FOUNDATION AID", "FULL DAY K CONVER-  
31 SION", "BOCES + SPECIAL SERVICES", "HIGH COST EXCESS COST", "PRIVATE  
32 EXCESS COST", "HARDWARE & TECHNOLOGY", "SOFTWARE, LIBRARY, TEXTBOOK",  
33 "TRANSPORTATION INCL SUMMER", "OPERATING REORG INCENTIVE", "CHARTER  
34 SCHOOL TRANSITIONAL", "EDUCATION GRANTS, ACADEMIC EN", "HIGH TAX AID"  
35 AND "SUPPLEMENTAL PUB EXCESS COST" under the heading "2009-10 ESTIMATED  
36 AIDS" in the school aid computer listing produced by the commissioner in  
37 support of the executive budget request for the two thousand nine--two  
38 thousand ten school year and entitled "BT112-1", and

39 (ii) "three-year average free and reduced price lunch percent" shall  
40 mean the quotient of (A) the sum of the number of pupils in kindergarten  
41 through grade six attending the public schools of the district who have  
42 applications on file or who are listed on a direct certification letter  
43 confirming their eligibility for participation in the state and feder-  
44 ally funded free and reduced price lunch program on the date enrollment  
45 was counted in accordance with this subdivision for the year prior to  
46 the base year, plus such number of eligible applicants for the free and  
47 reduced price lunch program computed for the year two years prior to the  
48 base year, plus such number of eligible applicants for the free and  
49 reduced price lunch program computed for the year three years prior to  
50 the base year, divided by (B) the sum of the number of pupils in kinder-  
51 garten through grade six on a regular enrollment register of a public  
52 school district on the date enrollment was counted in accordance with  
53 this subdivision for the year prior to the base year, plus such number  
54 of pupils in kindergarten through grade six on a regular enrollment  
55 register of a public school district computed for the year two years  
56 prior to the base year, plus such number of pupils in kindergarten

1 through grade six on a regular enrollment register of a public school  
2 district computed for the year three years prior to the base year, as  
3 computed pursuant to subparagraph i of paragraph q of subdivision one of  
4 section thirty-six hundred two of this title, and

5 (iii) "combined wealth ratio for total foundation aid" shall mean the  
6 combined wealth ratio for total foundation aid computed pursuant to  
7 subparagraph two of paragraph c of subdivision three of such section  
8 thirty-six hundred two of this title, and

9 (iv) "tax effort ratio" shall mean the tax effort ratio computed  
10 pursuant to subparagraph three of paragraph a of subdivision sixteen of  
11 section thirty-six hundred two of this title, and

12 (v) "reduction factor" shall mean the product of the positive remain-  
13 der of one less the three-year average free and reduced price lunch  
14 percent, multiplied by the combined wealth ratio for total foundation  
15 aid computed pursuant to subparagraph two of paragraph c of subdivision  
16 three of section thirty-six hundred two of this title.

17 § 25. Subparagraph 4 of paragraph b of subdivision 1 of section 3609-a  
18 of the education law, as amended by chapter 474 of the laws of 1996, is  
19 amended to read as follows:

20 (4) State share of medicaid reimbursements. For the purposes of this  
21 subparagraph, [for payments made in the nineteen hundred ninety-five--  
22 ninety-six school year, there shall be two reporting periods: the first  
23 reporting period shall run from February first, nineteen hundred nine-  
24 ty-five through January thirty-first, nineteen hundred ninety-six, and  
25 the second reporting period shall run from February first, nineteen  
26 hundred ninety-six through April thirtieth, nineteen hundred ninety-six;  
27 thereafter,] the first reporting period shall run from May first of the  
28 base year through January thirty-first of the current year, and the  
29 second reporting period shall run from February first of the current  
30 year through April thirtieth of the current year. Notwithstanding any  
31 inconsistent provisions of law to the contrary, the sustaining advance  
32 payment due any school district pursuant to clause (ii) of subparagraph  
33 three of this paragraph in March shall be reduced by fifty percent of  
34 any federal participation during the first reporting period pursuant to  
35 title XIX of the social security act, in special education programs  
36 provided pursuant to article eighty-nine of this chapter for services  
37 provided on or before June thirtieth, two thousand nine; the June  
38 payment due any school district pursuant to clause (v) of subparagraph  
39 three of this paragraph shall be reduced by fifty percent of any federal  
40 participation during the second reporting period for services provided  
41 on or before June thirtieth, two thousand nine. Not later than ten days  
42 after the end of a reporting period, the commissioner of [social  
43 services] health, as the authorized fiscal agent of the state education  
44 department, shall certify to the commissioner and the director of the  
45 budget the total amount of such federal moneys paid to a school district  
46 for such services during such reporting period. Following each cycle  
47 payment, the commissioner of [social services] health shall report to  
48 the commissioner the aggregate amount of such federal medicaid payments  
49 to each school district. The commissioner shall recoup such amounts  
50 first, to the extent possible, from the specified payment, then by with-  
51 holding any other moneys due the school district and finally by direct  
52 billing to any school district still owing moneys to the state. All  
53 moneys withheld or paid to the state on account of this paragraph shall  
54 be credited by the comptroller to the local assistance account for  
55 general support for public schools.



1 § 26. Paragraph a of subdivision 1 of section 3609-b of the education  
2 law, as amended by section 41 of part C of chapter 57 of the laws of  
3 2004, is amended to read as follows:

4 a. Any moneys to be apportioned by the commissioner to school  
5 districts during the school year pursuant to this section for services  
6 provided on or before June thirtieth, two thousand nine shall, in the  
7 first instance, be designated as the state share of moneys due a school  
8 district pursuant to title XIX of the social security act, on account of  
9 school supportive health services provided to students with disabilities  
10 in special education programs pursuant to article eighty-nine of this  
11 chapter and to those pupils who are qualified handicapped persons as  
12 defined in the federal rehabilitation act of nineteen hundred seventy-  
13 three, as amended. Some or all of such state share may be assigned on  
14 behalf of school districts to the department of [social services]  
15 health, as provided herein; any remaining state share moneys shall be  
16 paid to school districts on the same schedule as the federal share of  
17 such title XIX payments and shall be based on the monthly report of the  
18 commissioner of [social services] health to the commissioner; and any  
19 remaining moneys to be apportioned to a school district pursuant to this  
20 section shall be paid in accordance with the provisions of subdivision  
21 two of this section. The amount to be assigned to the department of  
22 [social services] health, as determined by the commissioner of [social  
23 services] health, for any school district shall not exceed the federal  
24 share of any moneys due such school district pursuant to title XIX.  
25 Moneys designated as state share moneys shall be paid to such school  
26 districts based on the submission and approval of claims related to such  
27 school supportive health services, in the manner provided by law.

28 § 27. Subdivision 1 of section 3609-b of the education law is amended  
29 by adding a new paragraph a-1 to read as follows:

30 a-1. Any moneys to be apportioned by the commissioner to school  
31 districts during the school year pursuant to this section for services  
32 provided during the two thousand nine--two thousand ten school year and  
33 thereafter shall, in the first instance, be designated as the state  
34 share of moneys due a school district pursuant to title XIX of the  
35 social security act, on account of school supportive health services  
36 provided to students with disabilities in special education programs  
37 pursuant to article eighty-nine of this chapter and to those pupils who  
38 are qualified handicapped persons as defined in the federal rehabili-  
39 tation act of nineteen hundred seventy-three, as amended. Such state  
40 share shall be assigned on behalf of school districts to the department  
41 of health, as provided herein; the amount designated as such nonfederal  
42 share shall be transferred by the commissioner to the department of  
43 health based on the monthly report of the commissioner of health to  
44 the commissioner; and any remaining moneys to be apportioned to a school  
45 district pursuant to this section shall be paid in accordance with the  
46 provisions of subdivision two of this section. The amount to be  
47 assigned to the department of health, as determined by the commissioner  
48 of health, for any school district shall not exceed the federal share of  
49 any moneys due such school district pursuant to title XIX. Moneys desig-  
50 nated as state share moneys shall be paid to such school districts by  
51 the department of health based on the submission and approval of claims  
52 related to such school supportive health services, in the manner  
53 provided by law.

54 § 28. Paragraph b of subdivision 2 of section 3612 of the education  
55 law, as amended by section 27 of part B of chapter 57 of the laws of  
56 2008, is amended to read as follows:

1 b. Such grants shall be awarded to school districts, within the limits  
2 of funds appropriated therefor, through a competitive process that takes  
3 into consideration the magnitude of any shortage of teachers in the  
4 school district, the number of teachers employed in the school district  
5 who hold temporary licenses to teach in the public schools of the state,  
6 the number of provisionally certified teachers, the fiscal capacity and  
7 geographic sparsity of the district, the number of new teachers the  
8 school district intends to hire in the coming school year and the number  
9 of summer in the city student internships proposed by an eligible school  
10 district, if applicable. Grants provided pursuant to this section shall  
11 be used only for the purposes enumerated in this section. Notwithstand-  
12 ing any other provision of law to the contrary, a city school district  
13 in a city having a population of one million or more inhabitants receiv-  
14 ing a grant pursuant to this section may use no more than eighty percent  
15 of such grant funds for any recruitment, retention and certification  
16 costs associated with transitional certification of teacher candidates  
17 for the school years two thousand one--two thousand two through [two  
18 thousand eight--two thousand nine] two thousand nine--two thousand ten.

19 § 29. Subdivision 9 of section 3612 of the education law, as amended  
20 by section 27-a of part B of chapter 57 of the laws of 2008, is amended  
21 to read as follows:

22 9. Science, mathematics and bilingual education tuition reimbursement  
23 program. [Of the amount appropriated for purposes of this section for  
24 grants to school districts for the two thousand seven--two thousand  
25 eight school year and thereafter, five million dollars (\$5,000,000)  
26 shall be made available for a] A science, mathematics and bilingual  
27 education tuition reimbursement program may be available to eligible  
28 teachers pursuant to the provisions of this subdivision to attract qual-  
29 ified teachers who have received or will receive a transitional teaching  
30 certificate to teach mathematics, science, or bilingual education in a  
31 low performing school. A science, mathematics and bilingual education  
32 tuition reimbursement program shall be developed by the commissioner to  
33 attract qualified teachers who have received or will receive a transi-  
34 tional teaching certificate, to teach mathematics, science, or bilingual  
35 education in a low-performing school.

36 § 30. Intentionally Omitted.

37 § 31. Paragraph a of subdivision 3 of section 3641 of the education  
38 law, as added by section 29-a of part B of chapter 57 of the laws of  
39 2008, is amended to read as follows:

40 a. In addition to apportionments otherwise provided by section thir-  
41 ty-six hundred two of this article, for aid payable in the two thousand  
42 eight--two thousand nine and two thousand nine--two thousand ten school  
43 [year] years, the amounts specified in paragraphs c and d of this subdi-  
44 vision shall be paid for the purpose of providing additional funding for  
45 school districts which have experienced a significant financial hardship  
46 caused by an extraordinary change in the taxable property valuation or  
47 extraordinary judgments resulting from tax certiorari proceedings.

48 § 32. Paragraph b of subdivision 11 of section 3641 of the education  
49 law, as amended by chapter 9 of the laws of 2008, is amended to read as  
50 follows:

51 b. To the Roosevelt union free school district there shall be paid  
52 [twelve] six million dollars [(\$12,000,000)] (\$6,000,000) on an annual  
53 basis. For school years commencing on July first, two thousand seven and  
54 thereafter, such special academic improvement grant shall be payable  
55 from funds appropriated for such purpose and shall be apportioned to the  
56 Roosevelt union free school district in accordance with the payment

1 schedules contained in section three thousand six hundred nine-a of this  
2 article, notwithstanding any provision of law to the contrary.

3 § 33. Clause (e) of subparagraph 5 of paragraph b of subdivision 1 of  
4 section 4402 of the education law is REPEALED.

5 § 34. Subdivision 6 of section 4402 of the education law, as amended  
6 by section 31 of part B of chapter 57 of the laws of 2008, is amended to  
7 read as follows:

8 6. Notwithstanding any other law, rule or regulation to the contrary,  
9 the board of education of a city school district with a population of  
10 one hundred twenty-five thousand or more inhabitants shall be permitted  
11 to establish maximum class sizes for special classes for certain  
12 students with disabilities in accordance with the provisions of this  
13 subdivision. For the purpose of obtaining relief from any adverse fiscal  
14 impact from under-utilization of special education resources due to low  
15 student attendance in special education classes at the middle and  
16 secondary level as determined by the commissioner, such boards of educa-  
17 tion shall, during the school years nineteen hundred ninety-five--nine-  
18 ty-six through June thirtieth, two thousand [nine] ten of the [two thou-  
19 sand eight--two thousand nine] two thousand nine--two thousand ten  
20 school year, be authorized to increase class sizes in special classes  
21 containing students with disabilities whose age ranges are equivalent to  
22 those of students in middle and secondary schools as defined by the  
23 commissioner for purposes of this section by up to but not to exceed one  
24 and two tenths times the applicable maximum class size specified in  
25 regulations of the commissioner rounded up to the nearest whole number,  
26 provided that in a city school district having a population of one  
27 million or more, classes that have a maximum class size of fifteen may  
28 be increased by no more than one student and provided that the projected  
29 average class size shall not exceed the maximum specified in the appli-  
30 cable regulation, provided that such authorization shall terminate on  
31 June thirtieth, two thousand. Such authorization shall be granted upon  
32 filing of a notice by such a board of education with the commissioner  
33 stating the board's intention to increase such class sizes and a certif-  
34 ication that the board will conduct a study of attendance problems at  
35 the secondary level and will implement a corrective action plan to  
36 increase the rate of attendance of students in such classes to at least  
37 the rate for students attending regular education classes in secondary  
38 schools of the district. Such corrective action plan shall be submitted  
39 for approval by the commissioner by a date during the school year in  
40 which such board increases class sizes as provided pursuant to this  
41 subdivision to be prescribed by the commissioner. Upon at least thirty  
42 days notice to the board of education, after conclusion of the school  
43 year in which such board increases class sizes as provided pursuant to  
44 this subdivision, the commissioner shall be authorized to terminate such  
45 authorization upon a finding that the board has failed to develop or  
46 implement an approved corrective action plan.

47 § 35. Subdivision 5 of section 4408 of the education law is REPEALED.

48 § 36. Subparagraph (i) of paragraph a of subdivision 10 of section  
49 4410 of the education law, as amended by chapter 82 of the laws of 1995,  
50 is amended to read as follows:

51 (i) Commencing with the nineteen hundred ninety--ninety-one school  
52 year, the commissioner shall annually determine the tuition rate for  
53 approved services or programs provided to preschool children pursuant to  
54 this section. Such rates for providers of such services and programs  
55 shall be determined in conformance with a methodology established pursu-  
56 ant to subdivision four of section forty-four hundred five of this arti-

1 cle after consultation with and a review of an annual report prepared by  
2 the advisory committee established pursuant to paragraph a of subdivi-  
3 sion twelve of this section and shall be subject to the approval of the  
4 director of the budget. Notwithstanding any other provision of law, rule  
5 or regulation to the contrary, tuition rates established for the nine-  
6 teen hundred ninety-five--ninety-six school year shall exclude the two  
7 percent cost of living adjustment authorized in rates established for  
8 the nineteen hundred ninety-four--ninety-five school year. Notwithstand-  
9 ing any other provision of law, rule or regulation to the contrary,  
10 reimbursement of the costs of special education itinerant services  
11 provided in the two thousand nine--two thousand ten school year and  
12 thereafter shall be based upon actual services rendered and the full-  
13 time equivalent attendance of preschool children receiving such  
14 services.

15 § 37. Paragraphs a and b of subdivision 11 of section 4410 of the  
16 education law, paragraph a as amended and subparagraphs (iv) and (v) of  
17 paragraph b as added by chapter 474 of the laws of 1996, paragraph b as  
18 amended by chapter 170 of the laws of 1994, subparagraph (ii) of para-  
19 graph b as amended by section 54 of part C of chapter 57 of the laws of  
20 2004 and subparagraph (vi) of paragraph b as added by section 1 of part  
21 Q-1 of chapter 109 of the laws of 2006, are amended to read as follows:

22 a. The approved costs for a preschool child who receives services  
23 pursuant to this section shall be a charge upon the municipality [where-  
24 in] in which the parent, or person in parental relationship to such  
25 child resides in the first instance. All approved costs shall be paid in  
26 the first instance and at least quarterly by the appropriate governing  
27 body or officer of the municipality upon vouchers presented and audited  
28 in the same manner as the case of other claims against the municipality.  
29 Notwithstanding any inconsistent provisions of this section, upon  
30 notification by the commissioner, a municipality may withhold payments  
31 due any provider for services rendered to preschool children in a  
32 program for which the commissioner has been unable to establish a  
33 tuition rate due to the failure of the provider to file complete and  
34 accurate reports for such purpose, as required by the commissioner.

35 b. (i) Commencing with the reimbursement of municipalities for  
36 services provided pursuant to this section on or after July first, nine-  
37 teen hundred ninety-three and ending with the reimbursement of muni-  
38 cipalities for services provided pursuant to this section on or before  
39 June thirtieth, two thousand eight, the state shall reimburse fifty-nine  
40 and one half percent of the approved costs paid by a municipality for  
41 the purposes of this section. Commencing with the reimbursement of muni-  
42 cipalities, other than the city of New York, for services provided  
43 pursuant to this section on or after [July first, nineteen hundred nine-  
44 ty-four] July first, two thousand eight, the state shall reimburse  
45 [sixty-nine and one-half] sixty-two percent of the approved costs paid  
46 by a municipality for the purposes of this section. [The state shall  
47 reimburse fifty percent of the approved costs paid by a municipality for  
48 the purposes of this section for services provided prior to July first,  
49 nineteen hundred ninety-three.] In the case of the city of New York,  
50 commencing with the reimbursement of such municipality for services  
51 provided pursuant to this section on or after July first, two thousand  
52 eight, the state shall reimburse forty-seven percent of the approved  
53 costs paid by such municipality for the purposes of this section. Such  
54 state reimbursement to the municipality shall not be paid prior to April  
55 first of the school year in which such approved costs are paid by the  
56 municipality.



1 (ii) Fifteen percent of such approved costs for services provided to a  
2 preschool child pursuant to this section on or after July first, two  
3 thousand eight also shall be a charge upon the school district in which  
4 the parent, or person in parental relationship to such child resides,  
5 and such school district shall reimburse the state in such amount in  
6 accordance with this subparagraph; except that this subparagraph shall  
7 not apply to the city school district of the city of New York. The  
8 commissioner shall deduct an amount equal to such unpaid obligation from  
9 any general aid for public schools payments which become due to such  
10 school district pursuant to section thirty-six hundred nine-a of this  
11 chapter, excluding payments pursuant to clause (iii) of subparagraph  
12 three of paragraph b of subdivision one of such section thirty-six  
13 hundred nine-a. Where such school district is not eligible for payments  
14 pursuant to such section thirty-six hundred nine-a, or the amount of  
15 such unpaid obligation exceeds the amount due such school district  
16 pursuant to such section thirty-six hundred nine-a in the current school  
17 year, the commissioner shall bill and recover from such school district  
18 any excess unpaid obligation and the amount recovered from such school  
19 district shall be credited to the appropriation for purposes of this  
20 section in the local assistance account of the department. Provided,  
21 however, that no such deduction or recovery shall be made prior to July  
22 first, two thousand nine and the amounts so deducted from payments  
23 pursuant to such section thirty-six hundred nine-a shall be transferred  
24 to the appropriation made for purposes of this section from the general  
25 support from public schools appropriation.

26 (iii) In accordance with a schedule adopted by the commissioner, each  
27 municipality which has been notified by a board of its obligation to  
28 contract for the provision of approved special services or programs for  
29 a preschool child shall be provided with a listing of all such children  
30 by the commissioner. Such list shall include approved services and costs  
31 as prescribed by the commissioner for each such child for whom the muni-  
32 cipality shall certify, on such list, the amount expended for such  
33 purposes and the date of expenditure. Upon the receipt of such certified  
34 statement, the commissioner shall examine the same, and if such expendi-  
35 tures were made as required by this section, the commissioner shall  
36 approve it and transmit it to the comptroller for audit. The comptroller  
37 shall thereupon issue his warrant, in the amount specified in such  
38 approved statement for the payment thereof out of moneys appropriated  
39 therefor, to the municipal treasurer or chief fiscal officer as the case  
40 may be.

41 [(iii)] (iv) Notwithstanding the provisions of this paragraph, any  
42 monies due municipalities pursuant to this paragraph shall be reduced by  
43 an amount equal to the product of the percentage of the approved costs  
44 reimbursed by the state pursuant to subparagraph [i] (i) of this para-  
45 graph and any federal participation, pursuant to title XIX of the social  
46 security act, in special education programs provided pursuant to this  
47 section. The commissioner shall deduct such amount, as certified by the  
48 commissioner of [social services] health as the authorized fiscal agent  
49 of the state education department. Such deductions shall be made in  
50 accordance with a plan developed by the commissioner and approved by the  
51 director of the budget. To the extent that such deductions exceed moneys  
52 owed to the municipality pursuant to this paragraph, such excess shall  
53 be deducted from any other payments due the municipality.

54 [(iv)] (v) Notwithstanding any other provision of law to the contrary,  
55 no payments shall be made by the commissioner pursuant to this section  
56 on or after July first, nineteen hundred ninety-six based on a claim for

1 services provided during school years nineteen hundred eighty-nine-ni-  
2 nety, nineteen hundred ninety-ninety-one, nineteen hundred ninety-one-  
3 ninety-two, nineteen hundred ninety-two-ninety-three, nineteen hundred  
4 ninety-three-ninety-four, and nineteen hundred ninety-four-ninety-five  
5 which is submitted later than two years after the end of the nineteen  
6 hundred ninety-five-ninety-six school year; provided, however, that no  
7 payment shall be barred or reduced where such payment is required as a  
8 result of a court order or judgment or a final audit, and provided  
9 further that the commissioner may grant a waiver to a municipality  
10 excusing the late filing of such a claim upon a finding that the delay  
11 was caused by a party other than the municipality or a board to which  
12 the municipality delegated authority pursuant to paragraph f of subdivi-  
13 sion five or subdivision eight of this section.

14 [(v)] (vi) Notwithstanding any other provision of law to the contrary,  
15 no payments shall be made by the commissioner pursuant to this section  
16 on or after July first, nineteen hundred ninety-six based on a claim for  
17 services provided in the nineteen hundred ninety-five-ninety-six school  
18 year or thereafter which is submitted later than three years after the  
19 end of the school year in which services were rendered, provided, howev-  
20 er, that no payment shall be barred or reduced where such payment is  
21 required as a result of a court order or judgment or a final audit, and  
22 provided further that the commissioner may grant a waiver to a munici-  
23 pality excusing the late filing of such a claim upon a finding that the  
24 delay was caused by a party other than the municipality or a board to  
25 which the municipality delegates authority pursuant to paragraph f of  
26 subdivision five or subdivision eight of this section.

27 [(vi)] (vii) Notwithstanding any other provision of law to the contra-  
28 ry, beginning with state reimbursement otherwise payable in the two  
29 thousand six-two thousand seven state fiscal year and in each year  
30 thereafter, payments pursuant to this section, subject to county agree-  
31 ment and in the amounts specified in such agreement, shall be paid no  
32 later than June thirtieth of the state fiscal year next following the  
33 state fiscal year in which such reimbursement was otherwise eligible for  
34 payment and in which the liability to the county for such state  
35 reimbursement accrued, provided that such payments in a subsequent state  
36 fiscal year shall be recognized by the state and the applicable county  
37 as satisfying the state reimbursement obligation for the prior state  
38 fiscal year. Any unspent amount associated with such county agreements  
39 shall not be available for payments to other counties or municipalities.

40 § 38. Paragraph b of subdivision 1 of section 4452 of the education  
41 law is REPEALED.

42 § 39. Section 6-p of the general municipal law is amended by adding a  
43 new subdivision 10 to read as follows:

44 10. Notwithstanding any provision of law to the contrary, the govern-  
45 ing board of a school district may, during the two thousand nine-two  
46 thousand ten school year, authorize a withdrawal from this fund in an  
47 amount not to exceed the lesser of: (a) the dollar value of excess fund-  
48 ing in the fund as determined by the comptroller pursuant to section  
49 thirty-three of this chapter or (b) the amount of the school district's  
50 deficit reduction assessment as calculated by the commissioner of educa-  
51 tion pursuant to former paragraph c of subdivision one of section thir-  
52 ty-six hundred one-a of the education law. Funds withdrawn pursuant to  
53 this subdivision may only be used for the purpose of maintaining educa-  
54 tional programming during the two thousand nine-two thousand ten school  
55 year which otherwise would have been reduced as a result of such deficit  
56 reduction assessment. Governing boards which make such a withdrawal





1 shall submit, in a form prescribed by the commissioner of education,  
 2 relevant information about the withdrawal, which shall include but not  
 3 be limited to, the amount of such withdrawal, the date of withdrawal,  
 4 and the use of such withdrawn funds.

5 § 40. Section 33 of the general municipal law is amended by adding a  
 6 new subdivision 3 to read as follows:

7 3. In addition to the inspection and examination of certain accounts  
 8 pursuant to this section, the comptroller during the two thousand nine-  
 9 -two thousand ten school year, shall also examine for the most recent  
 10 school year practicable, the employee benefit accrued liability reserve  
 11 funds of school districts established pursuant to section six-p of this  
 12 chapter. Such examination shall be for the purpose of determining the  
 13 amount of funding in the reserve fund, the amount of liabilities against  
 14 such fund and if there exist funds in the reserve fund which are in  
 15 excess of the total liabilities of such fund. The comptroller shall  
 16 notify the school district if such excess funds exist and the dollar  
 17 value of the excess funding. The comptroller shall also prepare a report  
 18 on the school districts with excess funds in their employee benefit  
 19 accrued liability reserve fund and the amount of the excess funding for  
 20 each district. Such report shall be submitted by July first, two thou-  
 21 sand ten to the director of the budget, the chair of the senate finance  
 22 committee, the chair of the assembly ways and means committee and the  
 23 commissioner of education.

24 § 41. Subdivision b of section 2 of chapter 756 of the laws of 1992,  
 25 relating to funding a program for work force education conducted by the  
 26 consortium for worker education in New York city, as amended by section  
 27 36 of part B of chapter 57 of the laws of 2008, is amended to read as  
 28 follows:

29 b. Reimbursement for programs approved in accordance with subdivision  
 30 a of this section for the 2006-07 school year shall not exceed 64.7  
 31 percent of the lesser of such approvable costs per contact hour or nine  
 32 dollars and twenty-five cents per contact hour where a contact hour  
 33 represents sixty minutes of instruction services provided to an eligible  
 34 adult, reimbursement for the 2007-08 school year shall not exceed 63.3  
 35 percent of the lesser of such approvable costs per contact hour or nine  
 36 dollars and ninety cents per contact hour where a contact hour repres-  
 37 ents sixty minutes of instruction services provided to an eligible  
 38 adult, [and] reimbursement for the 2008-09 school year shall not exceed  
 39 62.8 percent of the lesser of such approvable costs per contact hour or  
 40 ten dollars and sixty-five cents per contact hour where a contact hour  
 41 represents sixty minutes of instruction services provided to an eligible  
 42 adult and reimbursement for the 2009-10 school year shall not exceed  
 43 64.1 percent of the lesser of such approvable costs per contact hour or  
 44 eleven dollars and forty cents per contact hour where a contact hour  
 45 represents sixty minutes of instruction services provided to an eligible  
 46 adult. Notwithstanding any other provision of law to the contrary, for  
 47 the 2006-07 school year such contact hours shall not exceed one million  
 48 nine hundred twenty-three thousand seventy-six (1,923,076) hours; where-  
 49 as for the 2007-08 school year such contact hours shall not exceed one  
 50 million eight hundred thirty-seven thousand sixty (1,837,060) hours;  
 51 whereas for the 2008-09 school year such contact hours shall not exceed  
 52 one million nine hundred forty-six thousand one hundred seven  
 53 (1,946,107) hours; whereas for the 2009-10 school year such contact  
 54 hours shall not exceed one million five hundred seventy-five thousand  
 55 three hundred forty-two (1,575,342) hours. Notwithstanding any other  
 56 provision of law to the contrary, the apportionment calculated for the

1 city school district of the city of New York pursuant to subdivision 11  
2 of section 3602 of the education law shall be computed as if such  
3 contact hours provided by the consortium for worker education, not to  
4 exceed the contact hours set forth herein, were eligible for aid in  
5 accordance with the provisions of such subdivision 11 of section 3602 of  
6 the education law.

7 § 42. Section 4 of chapter 756 of the laws of 1992, relating to fund-  
8 ing a program for work force education conducted by the consortium for  
9 worker education in New York city, is amended by adding a new subdivi-  
10 sion o to read as follows:

11 o. The provisions of this subdivision shall not apply after the  
12 completion of payments for the 2009-2010 school year. Notwithstanding  
13 any inconsistent provisions of law, the commissioner of education shall  
14 withhold a portion of employment preparation education aid due to the  
15 city school district of the city of New York to support a portion of the  
16 costs of the work force education program. Such moneys shall be credited  
17 to the elementary and secondary education fund-local assistance account  
18 and shall not exceed eleven million five hundred thousand dollars  
19 (\$11,500,000).

20 § 43. Section 6 of chapter 756 of the laws of 1992, relating to fund-  
21 ing a program for work force education conducted by the consortium for  
22 worker education in New York city, as amended by section 38 of part B of  
23 chapter 57 of the laws of 2008, is amended to read as follows:

24 § 6. This act shall take effect July 1, 1992, and shall be deemed  
25 repealed on June 30, [2009] 2010.

26 § 44. Subdivision 1 of section 167 of chapter 169 of the laws of 1994  
27 relating to certain provisions related to the 1994-95 state operations,  
28 aid to localities, capital projects and debt service budgets as amended  
29 by section 39 of part B of chapter 57 of the laws of 2008, is amended to  
30 read as follows:

31 1. Sections one through seventy of this act shall be deemed to have  
32 been in full force and effect as of April 1, 1994 provided, however,  
33 that sections one, two, twenty-four, twenty-five and twenty-seven  
34 through seventy of this act shall expire and be deemed repealed on March  
35 31, 2000; provided, however, that section twenty of this act shall apply  
36 only to hearings commenced prior to September 1, 1994, and provided  
37 further that section twenty-six of this act shall expire and be deemed  
38 repealed on March 31, 1997; and provided further that sections four  
39 through fourteen, sixteen, and eighteen, nineteen and twenty-one through  
40 twenty-one-a of this act shall expire and be deemed repealed on March  
41 31, 1997; and provided further that sections three, fifteen, seventeen,  
42 twenty, twenty-two and twenty-three of this act shall expire and be  
43 deemed repealed on March 31, [2010] 2011.

44 § 45. Subdivisions 22 and 24 of section 140 of chapter 82 of the laws  
45 of 1995, amending the education law and certain other laws relating to  
46 state aid to school districts and the appropriation of funds for the  
47 support of government, as amended by section 40 of part B of chapter 57  
48 of the laws of 2008, are amended to read as follows:

49 (22) sections one hundred twelve, one hundred thirteen, one hundred  
50 fourteen, one hundred fifteen and one hundred sixteen of this act shall  
51 take effect on July 1, 1995; provided, however, that section one hundred  
52 thirteen of this act shall remain in full force and effect until July 1,  
53 [2009] 2010 at which time it shall be deemed repealed;

54 (24) sections one hundred eighteen through one hundred thirty of this  
55 act shall be deemed to have been in full force and effect on and after  
56 July 1, 1995; provided further, however, that the amendments made pursu-

1 ant to section one hundred nineteen of this act shall be deemed to be  
2 repealed on and after July 1, [2009] 2010;

3 § 46. Section 7 of chapter 472 of the laws of 1998 amending the educa-  
4 tion law relating to the lease of school buses by school districts, as  
5 amended by section 53 of part B of chapter 57 of the laws of 2007, is  
6 amended to read as follows:

7 § 7. This act shall take effect September 1, 1998, and shall expire  
8 and be deemed repealed September 1, [2009] 2012.

9 § 47. Paragraph c of section 45 of part B of chapter 57 of the laws of  
10 2008 amending the education law and other laws relating to special  
11 apportionment for salary expenses, is amended to read as follows:

12 c. Notwithstanding the provisions of section 3609-a of the education  
13 law, an amount equal to the amount paid to a school district pursuant to  
14 subdivisions a and b of this section shall first be deducted from the  
15 following payments due the school district during the [2008-2009] school  
16 year following the school year in which application was made, pursuant  
17 to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivi-  
18 sion 1 of section 3609-a of the education law in the following order:  
19 the lottery apportionment payable pursuant to subparagraph (2) of such  
20 paragraph followed by the fixed fall payments payable pursuant to  
21 subparagraph (4) of such paragraph and then followed by the district's  
22 payments to the teachers' retirement system pursuant to subparagraph (1)  
23 of such paragraph, and any remainder to be deducted from the individual-  
24 ized payments due the district pursuant to paragraph b of such subdivi-  
25 sion shall be deducted on a chronological basis starting with the earli-  
26 est payment due the district.

27 § 48. School bus driver training. In addition to apportionments other-  
28 wise provided by section 3602 of the education law, for aid payable in  
29 the 2009-2010 school year, the commissioner of education shall allocate  
30 school bus driver training grants to school districts and boards of  
31 cooperative education services pursuant to sections 3650-a, 3650-b and  
32 3650-c of the education law, or for contracts directly with not-for-pro-  
33 fit educational organizations for the purposes of this section. Such  
34 payments shall not exceed four hundred thousand dollars (\$400,000).

35 § 49. Support of public libraries. The moneys appropriated for the  
36 support of public libraries by a chapter of the laws of 2009 enacting  
37 the education, labor and family assistance budget shall be apportioned  
38 for 2009-2010 in accordance with the provisions of chapter 917 of the  
39 laws of 1990, as otherwise amended by chapter 625 of the laws of 1991,  
40 chapter 260 of the laws of 1993, chapter 524 of the laws of 1998, chap-  
41 ters 571 and 572 of the laws of 2003, part O of chapter 57 of the laws  
42 of 2005, chapter 58 of the laws of 2006, and chapter 57 of the laws of  
43 2007 taking into account the provisions of section 483 of chapter 170 of  
44 the laws of 1994, chapter 82 of the laws of 1995 and the provisions of  
45 this section, provided that library construction aid pursuant to section  
46 273-a of the education law shall not be payable from the appropriation  
47 for the support of public libraries and provided further that no member  
48 library shall receive less local services aid than it received in 2001  
49 except as a result of a reduction adjustment necessary to conform to the  
50 appropriation for support of public libraries and provided further, that  
51 no system or program, as defined by the commissioner of education, shall  
52 receive less total system or program aid than it received for the year  
53 2001-2002 except as a result of a reduction adjustment necessary to  
54 conform to the appropriation for support of public libraries and  
55 provided further, notwithstanding any provisions of law to the contrary,  
56 no library or library system shall receive less aid pursuant to section

1 271, 272, or 273 of the education law than it received for the year  
2 2001-2002 by reason of a decrease in the population of the area served,  
3 or the ratio of the area served to the population of the state, as a  
4 result of the latest federal census, provided that such aid shall be  
5 subject to a reduction adjustment pursuant to this section. Notwith-  
6 standing any other provision of law to the contrary the moneys appropri-  
7 ated for the support of public libraries for the year 2009--2010 by a  
8 chapter of the laws of 2009 enacting the education, labor and family  
9 assistance budget shall fulfill the state's obligation to provide such  
10 aid and, pursuant to a plan developed by the commissioner of education  
11 and approved by the director of the budget, the aid payable to libraries  
12 and library systems pursuant to such appropriation shall be reduced  
13 proportionately to assure that the total amount of aid payable does not  
14 exceed the total appropriation for such purpose.

15 § 50. Special apportionment for salary expenses. a. Notwithstanding  
16 any other provision of law, upon application to the commissioner of  
17 education, not sooner than the first day of the second full business  
18 week of June, 2010 and not later than the last day of the third full  
19 business week of June, 2010, a school district eligible for an appor-  
20 tionment pursuant to section 3602 of the education law shall be eligible  
21 to receive an apportionment pursuant to this section, for the school  
22 year ending June 30, 2010, for salary expenses incurred between April 1  
23 and June 30, 2010, and such apportionment shall not exceed the deficit  
24 reduction assessment of 1990-91 as determined by the commissioner of  
25 education, pursuant to paragraph f of subdivision 1 of section 3602 of  
26 the education law, as in effect through June 30, 1993, plus 186 percent  
27 of such amount for a city school district in a city with a population in  
28 excess of 1,000,000 inhabitants and plus 209 percent of such amount for  
29 a city school district in a city with a population of more than 195,000  
30 inhabitants and less than 219,000 inhabitants according to the latest  
31 federal census, and shall not exceed such salary expenses. Such applica-  
32 tion shall be made by a school district, after the board of education or  
33 trustees have adopted a resolution to do so and in the case of a city  
34 school district in a city with a population in excess of 125,000 inhab-  
35 itants, with the approval of the mayor of such city.

36 b. The claim for an apportionment to be paid to a school district  
37 pursuant to subdivision a of this section shall be submitted to the  
38 commissioner of education on a form prescribed for such purpose, and  
39 shall be payable upon determination by such commissioner that the form  
40 has been submitted as prescribed. Such approved amounts shall be payable  
41 on the same day in September of the school year following the year in  
42 which application was made as funds provided pursuant to subparagraph  
43 (4) of paragraph b of subdivision 4 of section 92-c of the state finance  
44 law, on the audit and warrant of the state comptroller on vouchers  
45 certified or approved by the commissioner of education in the manner  
46 prescribed by law from moneys in the state lottery fund and from the  
47 general fund to the extent that the amount paid to a school district  
48 pursuant to this section exceeds the amount, if any, due such school  
49 district pursuant to subparagraph (2) of paragraph a of subdivision 1 of  
50 section 3609-a of the education law in the school year following the  
51 year in which application was made.

52 c. Notwithstanding the provisions of section 3609-a of the education  
53 law, an amount equal to the amount paid to a school district pursuant to  
54 subdivisions a and b of this section shall first be deducted from the  
55 following payments due the school district during the school year  
56 following the year in which application was made pursuant to subpara-

1 graphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of  
2 section 3609-a of the education law in the following order: the lottery  
3 apportionment payable pursuant to subparagraph (2) of such paragraph  
4 followed by the fixed fall payments payable pursuant to subparagraph (4)  
5 of such paragraph and then followed by the district's payments to the  
6 teachers' retirement system pursuant to subparagraph (1) of such para-  
7 graph, and any remainder to be deducted from the individualized payments  
8 due the district pursuant to paragraph b of such subdivision shall be  
9 deducted on a chronological basis starting with the earliest payment due  
10 the district.

11 § 51. Special apportionment for public pension accruals. a. Notwith-  
12 standing any other provision of law, upon application to the commis-  
13 sioner of education, not later than June 30, 2010, a school district eligi-  
14 ble for an apportionment pursuant to section 3602 of the education law  
15 shall be eligible to receive an apportionment pursuant to this section,  
16 for the school year ending June 30, 2010, and such apportionment shall  
17 not exceed the additional accruals required to be made by school  
18 districts in the 2004-05 and 2005-06 school years associated with chang-  
19 es for such public pension liabilities. The amount of such additional  
20 accrual shall be certified to the commissioner of education by the pres-  
21 ident of the board of education or the trustees or, in the case of a  
22 city school district in a city with a population in excess of 125,000  
23 inhabitants, the mayor of such city. Such application shall be made by a  
24 school district, after the board of education or trustees have adopted a  
25 resolution to do so and in the case of a city school district in a city  
26 with a population in excess of 125,000 inhabitants, with the approval of  
27 the mayor of such city.

28 b. The claim for an apportionment to be paid to a school district  
29 pursuant to subdivision a of this section shall be submitted to the  
30 commissioner of education on a form prescribed for such purpose, and  
31 shall be payable upon determination by such commissioner that the form  
32 has been submitted as prescribed. Such approved amounts shall be payable  
33 on the same day in September of the school year following the year in  
34 which application was made as funds provided pursuant to subparagraph  
35 (4) of paragraph b of subdivision 4 of section 92-c of the state finance  
36 law, on the audit and warrant of the state comptroller on vouchers  
37 certified or approved by the commissioner of education in the manner  
38 prescribed by law from moneys in the state lottery fund and from the  
39 general fund to the extent that the amount paid to a school district  
40 pursuant to this section exceeds the amount, if any, due such school  
41 district pursuant to subparagraph (2) of paragraph a of subdivision 1 of  
42 section 3609-a of the education law in the school year following the  
43 year in which application was made.

44 c. Notwithstanding the provisions of section 3609-a of the education  
45 law, an amount equal to the amount paid to a school district pursuant to  
46 subdivisions a and b of this section shall first be deducted from the  
47 following payments due the school district during the school year  
48 following the year in which application was made pursuant to subpara-  
49 graphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of  
50 section 3609-a of the education law in the following order: the lottery  
51 apportionment payable pursuant to subparagraph (2) of such paragraph  
52 followed by the fixed fall payments payable pursuant to subparagraph (4)  
53 of such paragraph and then followed by the district's payments to the  
54 teachers' retirement system pursuant to subparagraph (1) of such para-  
55 graph, and any remainder to be deducted from the individualized payments  
56 due the district pursuant to paragraph b of such subdivision shall be



1 deducted on a chronological basis starting with the earliest payment due  
2 the district.

3 § 52. a. Notwithstanding any other law, rule or regulation to the  
4 contrary, any moneys appropriated to the state education department may  
5 be suballocated to other state departments or agencies, as needed, to  
6 accomplish the intent of the specific appropriations contained therein.

7 b. Notwithstanding any other law, rule or regulation to the contrary,  
8 moneys appropriated to the state education department from the general  
9 fund/aid to localities, local assistance account-001, shall be for  
10 payment of financial assistance, as scheduled, net of disallowances,  
11 refunds, reimbursement and credits.

12 c. Notwithstanding any other law, rule or regulation to the contrary,  
13 all moneys appropriated to the state education department for aid to  
14 localities shall be available for payment of aid heretofore or hereafter  
15 to accrue and may be suballocated to other departments and agencies to  
16 accomplish the intent of the specific appropriations contained therein.

17 d. Notwithstanding any other law, rule or regulation to the contrary,  
18 moneys appropriated to the state education department for general  
19 support for public schools may be interchanged with any other item of  
20 appropriation for general support for public schools within the general  
21 fund local assistance account elementary, middle, secondary and continu-  
22 ing education program.

23 § 53. Notwithstanding the provision of any law, rule, or regulation to  
24 the contrary, the city school district of the city of Rochester, upon  
25 the consent of the board of cooperative educational services of the  
26 supervisory district serving its geographic region may purchase from  
27 such board for the 2009-10 school year, as a non-component school  
28 district, services required by article 19 of the education law.

29 § 54. The amounts specified in this section shall be a setaside from  
30 the state funds which each such district is receiving from the total  
31 foundation aid:

32 a. for the purpose of the development, maintenance or expansion of  
33 magnet schools or magnet school programs for the two thousand nine--two  
34 thousand ten school year. To the city school district of the city of New  
35 York there shall be paid forty-eight million one hundred seventy-five  
36 thousand dollars (\$48,175,000) including five hundred thousand dollars  
37 (\$500,000) for the Andrew Jackson High School; to the Buffalo city  
38 school district, twenty-one million twenty-five thousand dollars  
39 (\$21,025,000); to the Rochester city school district, fifteen million  
40 dollars (\$15,000,000); to the Syracuse city school district, thirteen  
41 million dollars (\$13,000,000); to the Yonkers city school district,  
42 forty-nine million five hundred thousand dollars, (\$49,500,000); to the  
43 Newburgh city school district, four million six hundred forty-five thou-  
44 sand dollars (\$4,645,000); to the Poughkeepsie city school district, two  
45 million four hundred seventy-five thousand dollars (\$2,475,000); to the  
46 Mount Vernon city school district, two million dollars (\$2,000,000); to  
47 the New Rochelle city school district, one million four hundred ten  
48 thousand dollars (\$1,410,000); to the Schenectady city school district,  
49 one million eight hundred thousand dollars (\$1,800,000); to the Port  
50 Chester city school district, one million one hundred fifty thousand  
51 dollars (\$1,150,000); to the White Plains city school district, nine  
52 hundred thousand dollars (\$900,000); to the Niagara Falls city school  
53 district, six hundred thousand dollars (\$600,000); to the Albany city  
54 school district, three million five hundred fifty thousand dollars  
55 (\$3,550,000); to the Utica city school district, two million dollars  
56 (\$2,000,000); to the Beacon city school district, five hundred sixty-six

1 thousand dollars (\$566,000); to the Middletown city school district,  
2 four hundred thousand dollars (\$400,000); to the Freeport union free  
3 school district, four hundred thousand dollars (\$400,000); to the Green-  
4 burgh central school district, three hundred thousand dollars  
5 (\$300,000); to the Amsterdam city school district, eight hundred thou-  
6 sand dollars (\$800,000); to the Peekskill city school district, two  
7 hundred thousand dollars (\$200,000); and to the Hudson city school  
8 district, four hundred thousand dollars (\$400,000).

9 b. notwithstanding the provisions of paragraph a of this subdivision,  
10 a school district receiving a grant pursuant to this subdivision may use  
11 such grant funds for: (i) any instructional or instructional support  
12 costs associated with the operation of a magnet school; or (ii) any  
13 instructional or instructional support costs associated with implementa-  
14 tion of an alternative approach to reduction of racial isolation and/or  
15 enhancement of the instructional program and raising of standards in  
16 elementary and secondary schools of school districts having substantial  
17 concentrations of minority students. The commissioner of education shall  
18 not be authorized to withhold magnet grant funds from a school district  
19 that used such funds in accordance with this paragraph, notwithstanding  
20 any inconsistency with a request for proposals issued by such commis-  
21 sioner.

22 c. for the purpose of attendance improvement and dropout prevention  
23 for the two thousand nine--two thousand ten school year, for any city  
24 school district in a city having a population of more than one million,  
25 the setaside for attendance improvement and dropout prevention shall  
26 equal the amount set aside in the base year. For the two thousand nine-  
27 -two thousand ten school year, it is further provided that any city  
28 school district in a city having a population of more than one million  
29 shall allocate at least one-third of any increase from base year levels  
30 in funds set aside pursuant to the requirements of this subdivision to  
31 community-based organizations. Any increase required pursuant to this  
32 subdivision to community-based organizations must be in addition to  
33 allocations provided to community-based organizations in the base year.

34 d. for the purpose of teacher support for the two thousand nine--two  
35 thousand ten school year: to the city school district of the city of New  
36 York, sixty-two million seven hundred seven thousand dollars  
37 (\$62,707,000); to the Buffalo city school district, one million seven  
38 hundred forty-one thousand dollars (\$1,741,000); to the Rochester city  
39 school district, one million seventy-six thousand dollars (\$1,076,000);  
40 to the Yonkers city school district, one million one hundred forty-seven  
41 thousand dollars (\$1,147,000); and to the Syracuse city school district,  
42 eight hundred nine thousand dollars (\$809,000). All funds made available  
43 to a school district pursuant to this subdivision shall be distributed  
44 among teachers including prekindergarten teachers and teachers of adult  
45 vocational and academic subjects in accordance with this subdivision and  
46 shall be in addition to salaries heretofore or hereafter negotiated or  
47 made available; provided, however, that all funds distributed pursuant  
48 to this section for the current year shall be deemed to incorporate all  
49 funds distributed pursuant to former subdivision 27 of section 3602 of  
50 the education law for prior years. In school districts where the teach-  
51 ers are represented by certified or recognized employee organizations,  
52 all salary increases funded pursuant to this section shall be determined  
53 by separate collective negotiations conducted pursuant to the provisions  
54 and procedures of article 14 of the civil service law, notwithstanding  
55 the existence of a negotiated agreement between a school district and a  
56 certified or recognized employee organization.

1 § 55. 1. Support for educational television and radio. The commission-  
2 er of education shall undertake a review of the methodology used to  
3 allocate aid to educational broadcast councils and public radio stations  
4 no later than May 1, 2009 and before any funds may be disbursed or allo-  
5 cated in support of educational television and radio in the 2009-10  
6 state fiscal year. The review shall consider if the current allocation  
7 methodology for aid to educational broadcast councils and public radio  
8 stations should be modified given the level of aid to educational tele-  
9 vision and radio in the 2009-10 state fiscal year and if such allocation  
10 will ensure recipients of such aid will continue to receive an equitable  
11 share of such aid given the appropriated levels of support in the 2009-  
12 10 state fiscal year.

13 2. Fulfillment of state obligation. Notwithstanding any other  
14 provision of law to the contrary the moneys appropriated for the support  
15 of educational television and radio for 2009-2010 by a chapter of the  
16 laws of 2009 enacting the education, labor and family assistance budget  
17 shall fulfill the state's obligation to provide such aid and, such funds  
18 shall be allocated pursuant to a plan developed by the commissioner of  
19 education and approved by the director of the budget.

20 § 56. Severability. The provisions of this act shall be severable, and  
21 if the application of any clause, sentence, paragraph, subdivision,  
22 section or part of this act to any person or circumstance shall be  
23 adjudged by any court of competent jurisdiction to be invalid, such  
24 judgment shall not necessarily affect, impair or invalidate the applica-  
25 tion of any such clause, sentence, paragraph, subdivision, section or  
26 part of this act or remainder thereof, as the case may be, to any other  
27 person or circumstance, but shall be confined in its operation to the  
28 clause, sentence, paragraph, subdivision, section or part thereof  
29 directly involved in the controversy in which such judgment shall have  
30 been rendered.

31 § 57. This act shall take effect immediately and shall be deemed to  
32 have been in full force and effect on and after March 1, 2009; provided,  
33 however, that:

34 1. Sections one, seven through nine, seventeen, thirty-three, thirty-  
35 six and thirty-eight of this act shall take effect immediately, provided  
36 that the commissioner of education shall adopt any regulations needed to  
37 implement the provisions of this act on or before July 1, 2009;

38 2. Sections ten-a, ten-b, and eleven of this act shall take effect  
39 immediately and shall be deemed to have been in full force and effect on  
40 and after July 1, 2007;

41 3. Sections six, thirteen, fourteen, eighteen, nineteen, twenty-four,  
42 twenty-eight, twenty-nine, thirty-one and thirty-two, thirty-four,  
43 forty-six, forty-eight, fifty, fifty-one and fifty-four of this act  
44 shall take effect July 1, 2009;

45 4. Sections fifteen and thirty-seven of this act shall take effect  
46 immediately, and shall be deemed to have been in full force and effect  
47 on and after July 1, 2008;

48 5. The amendments to subdivision 6 of section 4402 of the education  
49 law made by section thirty-four of this act shall not affect the repeal  
50 of such subdivision and shall be deemed repealed therewith;

51 6. The amendments to chapter 756 of the laws of 1992, relating to  
52 funding a program for work force education conducted by the consortium  
53 for worker education in New York city made by sections forty-one and  
54 forty-two of this act shall not affect the repeal of such chapter and  
55 shall be deemed repealed therewith;



1 7. The amendments to chapter 756 of the laws of 1992 made by section  
2 forty-three of this act shall take effect immediately, and shall be  
3 deemed to have been in full force and effect on and after the effective  
4 date of section 85 of part H of chapter 83 of the laws of 2002;

5 8. Section forty-four of this act shall be deemed to have been in full  
6 force and effect on and after the effective date of section 101 of part  
7 A of chapter 436 of the laws of 1997;

8 9. Section forty-five of this act shall take effect immediately, and  
9 shall be deemed to have been in full force and effect on and after the  
10 effective date of section 140 of chapter 82 of the laws of 1995; and

11 10. Section fifty-two of this act shall take effect immediately, and  
12 shall be deemed to have been in full force and effect on and after April  
13 1, 2009 and shall expire and be deemed repealed March 31, 2010.

14

## PART B

15 Section 1. Transfer of powers. The functions and powers possessed by  
16 and all of the obligations and duties of the New York state theatre  
17 institute as established pursuant to article 9 of the arts and cultural  
18 affairs law shall be transferred and assigned to, assumed by and  
19 devolved upon the Nelson A. Rockefeller Empire State Plaza performing  
20 arts center corporation. Such transfer shall occur on the effective date  
21 of this legislation.

22 § 2. Merger of New York state theatre institute. Upon the transfer  
23 pursuant to section one of this act of the functions and powers  
24 possessed by and all of the obligations and duties of the New York state  
25 theatre institute as established pursuant to article 9 of the arts and  
26 cultural affairs law to the Nelson A. Rockefeller Empire State Plaza  
27 performing arts center corporation, the New York state theatre institute  
28 shall be considered to be merged with the Nelson A. Rockefeller Empire  
29 State Plaza performing arts center corporation.

30 § 3. Continuity of authority. Upon the transfer pursuant to section  
31 one of this act of the functions and powers possessed by and all of the  
32 obligations and duties of the New York state theatre institute as estab-  
33 lished pursuant to article 9 of the arts and cultural affairs law to the  
34 Nelson A. Rockefeller Empire State Plaza performing arts center corpo-  
35 ration foundation as prescribed by section one of this act for the  
36 purpose of succession to all functions, powers, duties and obligations  
37 of the New York state theatre institute, the Nelson A. Rockefeller  
38 Empire State Plaza performing arts center corporation shall be deemed  
39 and held to constitute the continuation of such authority and not a  
40 different agency or authority.

41 § 4. Transfer of records and property. Upon the transfer pursuant to  
42 section one of this act of the functions and powers possessed by and all  
43 of the obligations and duties of the New York state theatre institute as  
44 established pursuant to article 9 of the arts and cultural affairs law  
45 to the Nelson A. Rockefeller Empire State Plaza performing arts center  
46 corporation as prescribed by section one of this act, all books, papers,  
47 records and property, including capital facilities, pertaining to the  
48 New York state theatre institute shall be transferred to and maintained  
49 by the Nelson A. Rockefeller Empire State Plaza performing arts center  
50 corporation. The inventory of physical and other assets including the  
51 rights to certain plays and other works belonging to the New York state  
52 theatre institute shall be transferred to the Nelson A. Rockefeller  
53 Empire State Plaza performing arts center corporation and shall be made



1 immediately available to the corporation for its production, education  
2 and operations programs in carrying out the provisions of this act.

3 § 5. Completion of unfinished business. Upon the transfer pursuant to  
4 section one of this act of the functions and powers possessed by and all  
5 of the obligations and duties of the New York state theatre institute as  
6 established pursuant to article 9 of the arts and cultural affairs law  
7 to the Nelson A. Rockefeller Empire State Plaza performing arts center  
8 corporation as prescribed by section one of this act, any business or  
9 other matter undertaken or commenced by the New York state theatre  
10 institute pertaining to or connected with the functions, powers, obli-  
11 gations and duties so transferred and assigned to the Nelson A. Rocke-  
12 feller Empire State Plaza performing arts center corporation may be  
13 conducted or completed by the Nelson A. Rockefeller Empire State Plaza  
14 performing arts center corporation.

15 § 6. Terms occurring in laws, contracts or other documents. Upon the  
16 transfer pursuant to section one of this act of the functions and powers  
17 possessed by and all of the obligations and duties of the New York state  
18 theatre institute as established pursuant to article 9 of the arts and  
19 cultural affairs law to the Nelson A. Rockefeller Empire State Plaza  
20 performing arts center corporation foundation as prescribed by section  
21 one of this act, whenever the New York state theatre institute and the  
22 chairperson thereof, the functions, powers, obligations and duties of  
23 which are transferred to the Nelson A. Rockefeller Empire State Plaza  
24 performing arts center corporation are referred to or designated in any  
25 law, contract or document pertaining to the functions, powers, obli-  
26 gations and duties transferred and assigned pursuant to this act, such  
27 reference or designation shall be deemed to refer to the Nelson A. Rock-  
28 efeller Empire State Plaza performing arts center corporation and its  
29 executive director. Notwithstanding any law to the contrary, all rights  
30 and benefits, including terms and conditions of employment, and  
31 protection of civil service and collective bargaining of all employees  
32 affected by the transfer of the New York state theatre institute to the  
33 Nelson A. Rockefeller Empire State Plaza performing arts center corpo-  
34 ration, shall be preserved and protected under the transfer, and all  
35 transferred employees shall be considered for all purposes of article 14  
36 of the civil service law public employees and employees who are trans-  
37 ferred shall remain in the same collective bargaining unit.

38 § 7. Existing rights and remedies preserved. Upon the transfer pursu-  
39 ant to section one of this act of the functions and powers possessed by  
40 and all of the obligations and duties of the New York state theatre  
41 institute as established pursuant to article 9 of the arts and cultural  
42 affairs law to the Nelson A. Rockefeller Empire State Plaza performing  
43 arts center corporation as prescribed by section one of this act, no  
44 existing right or remedy of the state, including the New York state  
45 theater institute, shall be lost, impaired or affected by reason of this  
46 act.

47 § 8. Pending actions and proceedings. Upon the transfer pursuant to  
48 section one of this act of the functions and powers possessed by and all  
49 of the obligations and duties of the New York state theatre institute as  
50 established pursuant to article 9 of the arts and cultural affairs law  
51 transfer to the Nelson A. Rockefeller Empire State Plaza performing arts  
52 center corporation as prescribed by section one of this act, no action  
53 or proceeding pending on the effective date of this act, brought by or  
54 against the New York state theatre institute or executive director ther-  
55 eof shall be affected by any provision of this act, but the same may be  
56 prosecuted or defended in the name of the executive director of the

1 Nelson A. Rockefeller Empire State Plaza performing arts center corpo-  
2 ration. In all such actions and proceedings, the Nelson A. Rockefeller  
3 Empire State Plaza performing arts center corporation, upon application  
4 to the court, shall be substituted as a party.

5 § 9. Continuance of rules and regulations. Upon the transfer pursuant  
6 to section one of this act of the functions and powers possessed by and  
7 all the obligations and duties of the New York state theatre institute  
8 as established pursuant to article 9 of the arts and cultural affairs  
9 law transfer to the Nelson A. Rockefeller Empire State Plaza performing  
10 arts center corporation as prescribed by section one of this act, all  
11 rules, regulations, acts, determinations and decisions of the New York  
12 state theatre institute, pertaining to the functions transferred and  
13 assigned by this act to the Nelson A. Rockefeller Empire State Plaza  
14 performing arts center corporation in force at the time of such trans-  
15 fer, assignment, assumption or devolution shall continue in force and  
16 effect as rules, regulations, acts, determinations and decisions of the  
17 Nelson A. Rockefeller Empire State Plaza performing arts center corpo-  
18 ration until duly modified or repealed.

19 § 10. Transfer of funds. Upon the transfer pursuant to section one of  
20 this act of the functions and powers possessed by and all of the obli-  
21 gations and duties of the New York state theatre institute as estab-  
22 lished pursuant to article 9 of the arts and cultural affairs law to the  
23 Nelson A. Rockefeller Empire State Plaza performing arts center corpo-  
24 ration as prescribed by section one of this act, all funds pertaining to  
25 the New York state theatre institute shall be transferred to and main-  
26 tained by the Nelson A. Rockefeller Empire State Plaza performing arts  
27 center corporation. Upon such transfer pursuant to section one of this  
28 act, all funds held by the New York state theatre institute in the New  
29 York state theatre institute corporation fund established pursuant to  
30 section 97-u of the state finance law shall be transferred to the  
31 performing arts center corporation fund established pursuant to section  
32 97-s of the state finance law.

33 § 11. Transfer of appropriations. Upon the transfer pursuant to  
34 section one of this act of the functions and powers possessed by and all  
35 of the obligations and duties of the New York state theatre institute as  
36 established pursuant to article 9 of the arts and cultural affairs law  
37 to the Nelson A. Rockefeller Empire State Plaza performing arts center  
38 corporation as prescribed by section one of this act, all appropriations  
39 and reappropriations which shall have been made available as of the date  
40 of such transfer to the New York state theatre institute or segregated  
41 pursuant to law, to the extent of remaining unexpended or unencumbered  
42 balances thereof, whether allocated or unallocated and whether obligated  
43 or unobligated, shall be transferred to and made available for use and  
44 expenditure by the Nelson A. Rockefeller Empire State Plaza performing  
45 arts center corporation for the same purposes for which originally  
46 appropriated or reappropriated and shall be payable on vouchers certi-  
47 fied or approved by the commissioner of taxation and finance, on audit  
48 and warrant of the comptroller. Payments of liabilities for expenses of  
49 personal service, maintenance and operation which shall have been  
50 incurred as of the date of such transfer by the New York state theatre  
51 institute, and for liabilities incurred and to be incurred in completing  
52 its affairs shall also be made on vouchers certified or approved by the  
53 executive director of the Nelson A. Rockefeller Empire State Plaza  
54 performing arts center corporation, on audit and warrant of the comp-  
55 troller.



1 § 12. Section 97-zzz of the state finance law, as added by section 3-a  
 2 of part B of chapter 83 of the laws of 2002, subdivision 3 as amended by  
 3 section 1 of part Q of chapter 57 of the laws of 2005, is amended to  
 4 read as follows:

5 § 97-zzz. Cultural education account. 1. There is hereby established  
 6 in the joint custody of the state comptroller and the commissioner of  
 7 taxation and finance an account of the miscellaneous special fund to be  
 8 known as the cultural education account.

9 2. The comptroller is authorized and directed to receive for deposit  
 10 to the credit of the cultural education account revenues designated for  
 11 such deposit by law including those derived from the surcharge author-  
 12 ized by [the third undesignated] paragraph three of subdivision (a) of  
 13 section eight thousand eighteen of the civil practice and law and rules,  
 14 subparagraph b of paragraph four of subdivision (a) of section eight  
 15 thousand twenty-one of such law, subparagraph b of paragraph eleven of  
 16 subdivision (b) of section eight thousand twenty-one of such law, and  
 17 subdivision a of section 7-604[,] and subdivision 1 of section 7-614 of  
 18 the administrative code of the city of New York.

19 3. Moneys of this account, following appropriation by the legislature,  
 20 shall be available to support the following agencies and programs: (a)  
 21 the state education department for services and expenses of the cultural  
 22 education program including operating expenses and capital projects and  
 23 the New York state summer school of the arts subject to a plan approved  
 24 by the commissioner of education and the director of the budget; (b)  
 25 [the New York state theatre institute subject to a plan approved by the  
 26 director of the budget; and (c)] and the Nelson A. Rockefeller perform-  
 27 ing arts center corporation subject to a plan approved by the director  
 28 of the budget.

29 § 12-a. Chapter 688 of the laws of 1979 creating the Nelson A. Rocke-  
 30 feller Empire State Plaza performing arts center corporation, is  
 31 REPEALED.

32 § 13. Article 9 of the arts and cultural affairs law is REPEALED and a  
 33 new article 9 is added to read as follows:

#### 34 ARTICLE 9

#### 35 NELSON A. ROCKEFELLER EMPIRE STATE PLAZA

#### 36 PERFORMING ARTS CENTER CORPORATION

#### 37 Section 9.01. Legislative findings and declaration.

#### 38 9.03. Definitions.

#### 39 9.05. Nelson A. Rockefeller Empire State Plaza performing arts 40 center corporation.

#### 41 9.07. Purpose of the corporation.

#### 42 9.09. General powers and duties of the corporation.

#### 43 9.11. Cooperation of the office of general services.

#### 44 9.13. Objectives.

#### 45 9.15. Annual report.

#### 46 9.17. Tax exemptions.

#### 47 9.19. Examination of corporation records by the state comp- 48 troller.

#### 49 9.21. Inconsistent provisions in other acts superseded.

#### 50 9.23. Proposed budget.

#### 51 9.25. State agency.

#### 52 9.27. Separability.

53 § 9.01. Legislative findings and declaration. 1. It is hereby found  
 54 that there continues to exist a need for a performing arts center in the  
 55 city of Albany, as determined by the temporary state commission on the



1 capital city created by chapter three hundred nineteen of the laws of  
2 nineteen hundred sixty-one.

3 2. It is further found that the legislative findings set down upon the  
4 creation of the empire state youth theatre institute pursuant to chapter  
5 eight hundred twenty-six of the laws of nineteen hundred seventy-four,  
6 continue to be valid and hereby reaffirms and restates these findings:

7 (a) The arts are a motivating force in our schools and in our society.  
8 They are a sensitizing experience for a fuller life and a complement to  
9 the skills of reading, writing and mathematics.

10 (b) The use of creative arts for children and youth within the educa-  
11 tional structure has been shown to increase student success in all  
12 disciplines and to encourage emotional growth.

13 (c) Teachers should be experienced in the use of arts and theatre  
14 techniques in reaching and working with children and young people, as  
15 well as be prepared in the use of community cultural and human  
16 resources.

17 (d) The legislature further finds that there should be a state theatre  
18 institute established within the Nelson A. Rockefeller Empire State  
19 Plaza performing arts center corporation dedicated to bringing arts in  
20 education to the children and young people of this state.

21 (e) It is further found that such state theatre institute should  
22 embody a model theatre and education program for the children of New  
23 York state and should symbolize the commitment of the people of the  
24 state of New York to the maintenance and development of theatre and  
25 education for children and young people while making programs of such  
26 theatre institute accessible to the general public.

27 (f) It is further found that such state theatre institute should  
28 establish affiliations with public and private schools, institutions of  
29 higher learning and arts centers to assure delivery of its services to  
30 young people throughout the state.

31 3. It is further found that a performing arts center designed to serve  
32 public purposes and uses in the capital city and the surrounding region  
33 as well as state purposes and uses has been constructed as a part of the  
34 Nelson A. Rockefeller Empire State Plaza in the city of Albany. The  
35 performing arts center is the ellipsoidal structure which houses the  
36 nine hundred eighty-six seat auditorium and the four hundred sixty seat  
37 recital hall and other facilities described in this article.

38 4. It is further found that the performing arts center, located at the  
39 capital, should symbolize the preeminence of the performing arts in New  
40 York state and be a visible commitment of the state to pioneering and  
41 supporting the maintenance and development of the arts while making  
42 programs more accessible to the general public.

43 5. It is further found that the most effective administration of such  
44 a facility requires expert and experienced management and a mechanism to  
45 involve a broad spectrum of citizen and corporate sponsors, performing  
46 arts groups and volunteers.

47 6. It is therefore found and declared that these objectives can best  
48 be met through the establishment of a corporation to be known as the  
49 Nelson A. Rockefeller Empire State Plaza performing arts center corpo-  
50 ration and that the powers and duties of the corporation defined in this  
51 article are necessary and proper for the achievement of these ends.

52 § 9.03. Definitions. As used or referred to in this article, unless a  
53 different meaning clearly appears from the context:

54 1. The term "city" shall mean the city of Albany.

55 2. The term "county" shall mean the county of Albany.

1     3. The term "Nelson A. Rockefeller Empire State Plaza" shall mean the  
2 governmental complex constructed and occupied by the state of New York  
3 in the city of Albany under an agreement with the county of Albany  
4 pursuant to chapter one hundred fifty-two of the laws of nineteen  
5 hundred sixty-four.

6     4. The term "performing arts center" shall mean the ellipsoidal struc-  
7 ture erected and equipped for performing arts and other audience-related  
8 events; together with adjoining associated spaces at other levels for  
9 storage, rehearsal lounges and dressing rooms, and auxiliary space  
10 facilities in the same area to be used for related purposes.

11     5. The term "manage" shall mean the selecting, scheduling, promoting  
12 and conducting of events, establishing and collecting rates and charges  
13 for use of the facilities, adopting rules and regulations governing the  
14 use of the facilities, arranging for the sale of tickets, and taking all  
15 necessary and appropriate steps for the successful conduct of the events  
16 in the performing arts center facility under the jurisdiction of the  
17 corporation.

18     6. "Agency" means any state board, body, bureau, commission, council,  
19 department, public authority, public corporation, division, office or  
20 other governmental or proprietary function for the state.

21     7. "Corporation" means the Nelson A. Rockefeller Empire State Plaza  
22 performing arts center corporation created pursuant to section 9.05 of  
23 this article.

24     § 9.05. Nelson A. Rockefeller Empire State Plaza performing arts  
25 center corporation. 1. A corporation to be known as the Nelson A. Rock-  
26 efeller Empire State Plaza performing arts center corporation is hereby  
27 created. Such corporation shall be a body corporate and politic consti-  
28 tuting a public benefit corporation and its existence shall commence  
29 upon the appointment of the members of the board of directors as  
30 provided in this section. It shall have the powers and privileges of a  
31 corporation and all of its business shall be transacted, all funds  
32 invested, all warrants for money drawn and payments made, and all cash  
33 and securities and other personal and real property shall be held under  
34 its corporate name.

35     2. The corporation shall consist of a board of directors comprised of  
36 a chairperson and twenty other members. The chairperson of the board  
37 shall be designated by the governor. The board of directors shall  
38 consist of the state commissioner of general services; twelve members to  
39 be appointed by and serve at the pleasure of the governor, including  
40 three members representing the maintenance and development of theatre  
41 and education for children and young people; two members to be appointed  
42 and serve at the pleasure of the temporary president of the senate; two  
43 members to be appointed and serve at the pleasure of the speaker of the  
44 assembly; a member to be appointed and serve at the pleasure of the  
45 minority leader of the assembly; a member to be appointed and serve at  
46 the pleasure of the minority leader of the senate; a member to be  
47 appointed and serve at the pleasure of the mayor of the city of Albany;  
48 and a member to be appointed and serve at the pleasure of the county  
49 executive of the county of Albany. The members first appointed by the  
50 governor, the senate, the assembly, the city and the county shall serve  
51 for a period of two years; their successors and all other appointed  
52 members shall serve for a four-year term and each member shall continue  
53 to serve until the appointment and qualification of his or her succes-  
54 sor. Vacancies among members otherwise than by the expiration of term  
55 shall be filled by the appointing authority for the unexpired term. The  
56 chairperson and other members of the board shall not be entitled to

1 compensation for their services but shall be entitled to reimbursement  
2 for their actual and necessary expenses incurred in the performance of  
3 their official duties. A majority of the chairperson and other appointed  
4 members of the board shall constitute a quorum for the transaction of  
5 the business of the corporation. The board shall elect a secretary, and  
6 may elect such other officers as it shall deem necessary, and may dele-  
7 gate by the resolution of the board to the chairperson, one or more of  
8 its members or to its officers, agents and employees such powers and  
9 duties as it may deem proper.

10 3. No member of the board of directors or officer of the corporation  
11 shall be disqualified from holding any other public office or employ-  
12 ment, nor shall he or she forfeit any such office or employment by  
13 reason of his or her appointment pursuant to this section, notwithstand-  
14 ing the provisions of any general, special or local law, ordinance, city  
15 or county charter.

16 4. The corporation shall continue until all its liabilities have been  
17 met or otherwise discharged and until its existence shall have been  
18 terminated by law. Upon the termination of the existence of the corpo-  
19 ration, all of its rights and property shall pass to and be vested in  
20 the state.

21 5. The corporation shall hold regular meetings at least quarterly and  
22 shall hold special meetings on the call of the chairperson or any three  
23 members upon giving notice thereof to all members of the corporation at  
24 least forty-eight hours in advance. All meetings shall be held and  
25 notices filed in accordance with the open meetings law.

26 6. There shall be an executive director of the center appointed by the  
27 corporation.

28 7. The executive director shall be the chief executive officer of the  
29 center, and shall, subject to the direction of the corporation, have  
30 general supervision over the administration and operation of center  
31 projects and facilities and shall appoint and remove all other officers  
32 and employees of the center as prescribed by the rules and regulations  
33 to be enacted by the corporation. The executive director shall attend  
34 all corporation meetings and shall have the right to speak at such meet-  
35 ings, but shall have no vote.

36 8. The executive director may be removed from office by a majority  
37 vote of the corporation.

38 § 9.07. Purpose of the corporation. The corporation shall have sole  
39 discretion in and the responsibility for the management of the perform-  
40 ing arts center facilities in providing space and developing programs  
41 for civic, governmental, performing arts and other cultural and public  
42 events, and related uses for the benefit of the citizens of New York  
43 state and the departments and agencies of state government.

44 § 9.09. General powers and duties of the corporation. For carrying out  
45 its purposes, the corporation shall have power:

46 1. To sue and be sued;

47 2. To have a seal and alter the same at pleasure;

48 3. To acquire, hold and dispose of personal property for its corporate  
49 purposes, including the power to purchase, alter, install and dispose of  
50 fixtures, installations and equipment used in connection with the meet-  
51 ing center, provided however, that any such action that alters the  
52 design or structure of the center and any fixture, installation or  
53 equipment which may be disposed of valued in excess of five thousand  
54 dollars is subject to a resolution which must be approved by a majority  
55 of the board of directors at a meeting and such resolution must be  
56 approved by the director of the budget;



1 4. To make and alter bylaws for the regulation of its affairs and the  
2 conduct of its business, which bylaws and all the amendments thereto,  
3 duly certified by the secretary of the corporation, shall be filed in  
4 the office of the corporation and with the secretary of state;

5 5. To lease or sublease the meeting center facilities and other real  
6 property from the state and others for such terms and on such conditions  
7 as may be agreed upon and, subject to the provisions of such lease or  
8 leases, to sublease said property to others;

9 6. To appoint officers, agents and employees and to prescribe their  
10 qualifications and to fix their compensation;

11 7. Subject to terms and limitations of leases or contracts for use of  
12 the performing arts center facilities, to manage and operate such facil-  
13 ities in respects necessary or convenient for accomplishment of the  
14 corporation's purposes; to contract for the operation or maintenance of  
15 any parts thereof and for services to be performed; to rent parts there-  
16 of and grant concessions; and to fix and collect rental, fees and other  
17 charges on such terms and conditions as it may determine;

18 8. To make all contracts, including management contracts, necessary  
19 and convenient to carry out its purposes, and to execute all instruments  
20 necessary and convenient provided, however, that any such management  
21 contracts shall be subject to the approval of the director of the budg-  
22 et;

23 9. To use the services of state, city and county employees and agents  
24 and utilize their facilities, paying the corporation's agreed upon  
25 proportion of the compensation or costs thereof;

26 10. To accept gifts, grants, loans or contributions from the United  
27 States, the state of New York, or any agency or instrumentality of  
28 either of them, or the city, the county or an individual, foundation,  
29 firm or corporation, by bequest or otherwise, and to expend the proceeds  
30 for any purposes of the corporation;

31 11. All contributions of real or personal property made to the fund  
32 whether by gift, devise or bequest shall qualify as deductions in  
33 computing the net taxable income of the donor for the purposes of any  
34 income tax imposed by the state or any political subdivision thereof;

35 12. To submit reports to the governor, chairman of the senate finance  
36 committee, the chairman of the assembly ways and means committee and the  
37 state comptroller in the manner set forth in section 9.15 of this arti-  
38 cle; and

39 13. To do all things necessary or convenient to carry out the func-  
40 tions, powers and duties expressly set forth in this article.

41 § 9.11. Cooperation of the office of general services. The state  
42 office of general services shall have responsibility for the capital  
43 facilities of the performing arts center as well as the capital facili-  
44 ties formerly owned and operated by the New York state theatre institute  
45 and shall provide all support necessary to assure and preserve the safe-  
46 ty, efficiency, structural soundness and aesthetic appearance of these  
47 facilities.

48 § 9.13. Objectives. The Nelson A. Rockefeller Empire State Plaza  
49 performing arts center corporation shall:

50 1. Establish a theatre and education program for the children, youth  
51 and educators of New York state, to include the performing and visual  
52 media while emphasizing diversity, multi-culturalism and assuring access  
53 to and involvement of the disabled;

54 2. Offer New York state elementary and secondary school teachers  
55 in-service training in the use of theatre arts as a community resource,



1 as a complement to all other areas of education, and as an extension of  
2 classroom curriculum;

3 3. Offer accredited internships in theatre arts education to students  
4 being trained as teachers and artists by both public and private insti-  
5 tutions of higher learning;

6 4. Offer opportunities for high school and college level students from  
7 private and public institutions of higher learning to participate in the  
8 theatre, education and arts management aspects of the corporation  
9 through a practicum;

10 5. Offer guidance and consultation on arts and education programs in  
11 public and private elementary and secondary schools and institutions of  
12 higher learning and community centers throughout the state;

13 6. Serve as a professional theatre company and an educational resource  
14 center for children and young people;

15 7. Offer touring programs in theatre and associated education programs  
16 for children and young people in public and private elementary and  
17 secondary schools throughout the state; and

18 8. Develop theatre audiences for the future by stimulating children  
19 and young people who have had little or no experience in the arts.

20 § 9.15. Annual report. For the purposes of furnishing the state with  
21 systematic information regarding its status and activities, the corpo-  
22 ration shall submit to the governor, the chair of the senate finance  
23 committee, the chair of the assembly ways and means committee and the  
24 state comptroller, within ninety days after the end of the corporation's  
25 fiscal year, a complete and detailed report setting forth: (1) its oper-  
26 ations and accomplishments; (2) its receipts and disbursements, or  
27 revenues and expenses, during such fiscal year, in accordance with cate-  
28 gories or classifications established by the commission for its own  
29 operating and capital outlay purposes; and (3) its assets and liabil-  
30 ities at the end of its fiscal year, including the status of reserve,  
31 special or other funds and including the receipts and payments of these  
32 funds.

33 § 9.17. Tax exemptions. It is hereby found, determined and declared  
34 that the creation of the corporation and the carrying out of its corpo-  
35 rate purposes is in all respects for the benefit of the residents of the  
36 city and county and the people of the state of New York and is a public  
37 purpose, and the corporation shall be regarded as performing a govern-  
38 mental function in the exercise of the powers conferred upon it by this  
39 article and shall be required to pay no taxes or assessments upon any of  
40 the property acquired by or under its jurisdiction, control or super-  
41 vision or upon its activities.

42 § 9.19. Examination of corporation records by the state comptroller.  
43 Notwithstanding any other provision of this article, the state comp-  
44 troller shall, from time to time but not less than once in every five  
45 years, examine the books and accounts of the corporation including its  
46 receipts, disbursements, contracts, leases, sinking funds, investments  
47 and any other matters relating to its financial standing.

48 § 9.21. Inconsistent provisions in other acts superseded. Insofar as  
49 the provisions of this article are inconsistent with the provisions of  
50 any other act, general or special or of any local law of the city or  
51 county, the provisions of this article shall be controlling.

52 § 9.23. Proposed budget. The corporation shall annually submit a  
53 proposed budget to the director of the budget in September at the same  
54 time as budget requests are required to be submitted by state depart-  
55 ments. The proposed budget shall contain an operating budget, an equip-  
56 ment budget and an estimate of revenues. In addition, the corporation

1 shall submit an expenditure plan subject to the approval of the director  
 2 of the budget prior to the allocation of any appropriation. Such expend-  
 3 iture plan shall provide information on such funds and in such detail as  
 4 may be required by the director of the budget, and any subsequent amend-  
 5 ment to such plan shall require the prior approval of the director of  
 6 the budget.

7 § 9.25. State agency. For purposes of sections seventy-three, seven-  
 8 ty-three-a and seventy-four of the public officers law, the Nelson A.  
 9 Rockefeller Empire State Plaza performing arts center corporation is a  
 10 state agency, the officers, members, and employees of which are subject  
 11 to the provisions thereof.

12 § 9.27. Separability. If any section, clause or provision of this  
 13 article shall be unconstitutional or ineffective in whole or in part, to  
 14 the extent that it is not unconstitutional or ineffective it shall be  
 15 valid and effective and no other section, clause or provision shall on  
 16 account thereof be deemed invalid or ineffective.

17 § 14. Section 97-s of the state finance law is amended by adding a new  
 18 subdivision 5 to read as follows:

19 5. The cash balances of the accounts in the name of the New York state  
 20 theatre institute are hereby transferred to the performing arts center  
 21 corporation fund. Such moneys shall be immediately available to the  
 22 Nelson A. Rockefeller Empire State Plaza performing arts center corpo-  
 23 ration for its expenses, including production, travel, operation, print-  
 24 ing, leases, and other necessary expenses in carrying out the provisions  
 25 of article nine of the arts and cultural affairs law.

26 § 15. Section 97-u of the state finance law is REPEALED.

27 § 16. Severability. If any clause, sentence, paragraph, section or  
 28 part of this act shall be adjudged by any court of competent jurisdic-  
 29 tion to be invalid, such judgment shall not affect, impair or invalidate  
 30 the remainder thereof, but shall be confined in its operation to the  
 31 clause, sentence, paragraph, section or part thereof directly involved  
 32 in the controversy in which such judgment shall have been rendered.

33 § 17. This act shall take effect immediately.

34 PART C

35 Section 1. Subparagraphs (i), (ii), (iii), and (iv) of paragraph c of  
 36 subdivision 6 of section 665 of the education law, subparagraphs (i),  
 37 (ii) and (iii) as added by section 3 of part E1 of chapter 57 of the  
 38 laws of 2007, and subparagraph (iv) as amended by section 2 of part I of  
 39 chapter 57 of the laws of 2008, are amended to read as follows:

40 (i) For all students first receiving aid in two thousand six--two  
 41 thousand seven, two thousand seven--two thousand eight, and two thousand  
 42 eight--two thousand nine, and those students enrolled in a program of  
 43 remedial study approved by the commissioner, who first received aid in  
 44 two thousand six--two thousand seven, and thereafter, and enrolled in  
 45 four-year or five-year undergraduate programs whose terms are organized  
 46 in semesters:

|    |                  |     |     |     |     |     |     |     |     |     |      |
|----|------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|
| 47 | Before Being     | 1st | 2nd | 3rd | 4th | 5th | 6th | 7th | 8th | 9th | 10th |
| 48 | Certified        |     |     |     |     |     |     |     |     |     |      |
| 49 | for This         |     |     |     |     |     |     |     |     |     |      |
| 50 | Payment          |     |     |     |     |     |     |     |     |     |      |
| 51 | A Student Must 0 | 3   | 9   | 21  | 33  | 45  | 60  | 75  | 90  | 105 |      |
| 52 | Have Accrued at  |     |     |     |     |     |     |     |     |     |      |

1 Least This  
2 Many Credits

3 With At Least 0 1.1 1.2 1.3 2.0 2.0 2.0 2.0 2.0 2.0  
4 This Grade  
5 Point Average

6 (ii) For all students first receiving aid in two thousand six--two  
7 thousand seven, two thousand seven--two thousand eight, and two thousand  
8 eight--two thousand nine, and those students enrolled in a program of  
9 remedial study approved by the commissioner, who first received aid in  
10 two thousand six--two thousand seven, and thereafter, and enrolled in  
11 two-year undergraduate programs whose terms are organized in semesters:

12 Before Being 1 2 3 4 5 6  
13 Certified  
14 for This  
15 Payment

16 A Student 0 3 9 18 30 45  
17 Must Have  
18 Accrued at  
19 Least This  
20 Many Credits

21 With at Least 0 .5 .75 1.3 2.0 2.0  
22 This Grade  
23 Point Average

24 (iii) For all students first receiving aid in two thousand six--two  
25 thousand seven, two thousand seven--two thousand eight, and two thousand  
26 eight--two thousand nine, and those students enrolled in a program of  
27 remedial study approved by the commissioner, who first received aid in  
28 two thousand six--two thousand seven, and thereafter, and enrolled in  
29 four-year or five-year undergraduate programs whose terms are organized  
30 on a trimester basis:

31 Before Being 1 2 3 4 5 6 7 8  
32 Certified  
33 for This  
34 Payment

35 A Student 0 2 4 9 17 25 33 40  
36 Must Have  
37 Accrued at  
38 Least This  
39 Many Credits

40 With At Least 0 1.1 1.1 1.2 1.2 1.3 2.0 2.0  
41 This Grade  
42 Point Average

43 and,

44 Before Being 9 10 11 12 13 14 15  
45 Certified

|    |               |     |     |     |     |     |     |     |  |  |
|----|---------------|-----|-----|-----|-----|-----|-----|-----|--|--|
| 1  | for This      |     |     |     |     |     |     |     |  |  |
| 2  | Payment       |     |     |     |     |     |     |     |  |  |
| 3  | A Student     | 50  | 60  | 70  | 80  | 90  | 100 | 110 |  |  |
| 4  | Must Have     |     |     |     |     |     |     |     |  |  |
| 5  | Accrued at    |     |     |     |     |     |     |     |  |  |
| 6  | Least This    |     |     |     |     |     |     |     |  |  |
| 7  | Many Credits  |     |     |     |     |     |     |     |  |  |
| 8  | With At Least | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |  |  |
| 9  | This Grade    |     |     |     |     |     |     |     |  |  |
| 10 | Point Average |     |     |     |     |     |     |     |  |  |

11 (iv) For all students first receiving aid in two thousand six--two  
 12 thousand seven, two thousand seven--two thousand eight, and two thousand  
 13 eight--two thousand nine, and those students enrolled in a program of  
 14 remedial study approved by the commissioner, who first received aid in  
 15 two thousand six--two thousand seven, and thereafter, and enrolled in  
 16 two-year undergraduate programs whose terms are organized on a trimester  
 17 basis:

|    |               |   |    |    |     |     |     |     |     |     |
|----|---------------|---|----|----|-----|-----|-----|-----|-----|-----|
| 18 | Before Being  | 1 | 2  | 3  | 4   | 5   | 6   | 7   | 8   | 9   |
| 19 | Certified     |   |    |    |     |     |     |     |     |     |
| 20 | for This      |   |    |    |     |     |     |     |     |     |
| 21 | Payment       |   |    |    |     |     |     |     |     |     |
| 22 | A Student     | 0 | 2  | 4  | 9   | 15  | 21  | 30  | 37  | 45  |
| 23 | Must Have     |   |    |    |     |     |     |     |     |     |
| 24 | Accrued at    |   |    |    |     |     |     |     |     |     |
| 25 | Least This    |   |    |    |     |     |     |     |     |     |
| 26 | Many Credits  |   |    |    |     |     |     |     |     |     |
| 27 | With At Least | 0 | .5 | .5 | .75 | .75 | 1.3 | 2.0 | 2.0 | 2.0 |
| 28 | This Grade    |   |    |    |     |     |     |     |     |     |
| 29 | Point Average |   |    |    |     |     |     |     |     |     |

30 § 2. Paragraph c of subdivision 6 of section 665 of the education law  
 31 is amended by adding four new subparagraphs (v), (vi), (vii) and (viii)  
 32 to read as follows:

33 (v) For students first receiving aid in two thousand nine--two thou-  
 34 sand ten, and thereafter, and are not enrolled in a program of remedial  
 35 study approved by the commissioner and enrolled in four-year or five-  
 36 year undergraduate programs whose terms are organized in semesters:

|    |                        |            |            |            |            |            |            |            |            |            |             |
|----|------------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|-------------|
| 37 | <u>Before Being</u>    | <u>1st</u> | <u>2nd</u> | <u>3rd</u> | <u>4th</u> | <u>5th</u> | <u>6th</u> | <u>7th</u> | <u>8th</u> | <u>9th</u> | <u>10th</u> |
| 38 | <u>Certified</u>       |            |            |            |            |            |            |            |            |            |             |
| 39 | <u>for This</u>        |            |            |            |            |            |            |            |            |            |             |
| 40 | <u>Payment</u>         |            |            |            |            |            |            |            |            |            |             |
| 41 | <u>A Student Must</u>  | <u>0</u>   | <u>6</u>   | <u>18</u>  | <u>30</u>  | <u>45</u>  | <u>60</u>  | <u>75</u>  | <u>90</u>  | <u>105</u> | <u>120</u>  |
| 42 | <u>Have Accrued at</u> |            |            |            |            |            |            |            |            |            |             |
| 43 | <u>Least This</u>      |            |            |            |            |            |            |            |            |            |             |
| 44 | <u>Many Credits</u>    |            |            |            |            |            |            |            |            |            |             |
| 45 | <u>With At Least</u>   | <u>0</u>   | <u>1.5</u> | <u>1.8</u> | <u>2.0</u> | <u>2.0</u> | <u>2.0</u> | <u>2.0</u> | <u>2.0</u> | <u>2.0</u> | <u>2.0</u>  |
| 46 | <u>This Grade</u>      |            |            |            |            |            |            |            |            |            |             |

1 Point Average

2 (vi) For students first receiving aid in two thousand nine--two thou-  
3 sand ten, and thereafter, and are not enrolled in a program of remedial  
4 study approved by the commissioner and enrolled in two-year undergradu-  
5 ate programs whose terms are organized in semesters:

|    |                      |          |            |            |            |            |            |
|----|----------------------|----------|------------|------------|------------|------------|------------|
| 6  | <u>Before Being</u>  | <u>1</u> | <u>2</u>   | <u>3</u>   | <u>4</u>   | <u>5</u>   | <u>6</u>   |
| 7  | <u>Certified</u>     |          |            |            |            |            |            |
| 8  | <u>for This</u>      |          |            |            |            |            |            |
| 9  | <u>Payment</u>       |          |            |            |            |            |            |
| 10 | <u>A Student</u>     | <u>0</u> | <u>6</u>   | <u>15</u>  | <u>24</u>  | <u>39</u>  | <u>54</u>  |
| 11 | <u>Must Have</u>     |          |            |            |            |            |            |
| 12 | <u>Accrued at</u>    |          |            |            |            |            |            |
| 13 | <u>Least This</u>    |          |            |            |            |            |            |
| 14 | <u>Many Credits</u>  |          |            |            |            |            |            |
| 15 | <u>With at Least</u> | <u>0</u> | <u>1.2</u> | <u>1.5</u> | <u>1.8</u> | <u>2.0</u> | <u>2.0</u> |
| 16 | <u>This Grade</u>    |          |            |            |            |            |            |
| 17 | <u>Point Average</u> |          |            |            |            |            |            |

18 (vii) For students first receiving aid in two thousand nine--two thou-  
19 sand ten, and thereafter, and are not enrolled in a program of remedial  
20 study approved by the commissioner, and enrolled in four-year or five-  
21 year undergraduate programs whose terms are organized on a trimester  
22 basis:

|    |                      |          |            |            |            |            |            |            |            |
|----|----------------------|----------|------------|------------|------------|------------|------------|------------|------------|
| 23 | <u>Before Being</u>  | <u>1</u> | <u>2</u>   | <u>3</u>   | <u>4</u>   | <u>5</u>   | <u>6</u>   | <u>7</u>   | <u>8</u>   |
| 24 | <u>Certified</u>     |          |            |            |            |            |            |            |            |
| 25 | <u>for This</u>      |          |            |            |            |            |            |            |            |
| 26 | <u>Payment</u>       |          |            |            |            |            |            |            |            |
| 27 | <u>A Student</u>     | <u>0</u> | <u>4</u>   | <u>10</u>  | <u>18</u>  | <u>28</u>  | <u>38</u>  | <u>48</u>  | <u>58</u>  |
| 28 | <u>Must Have</u>     |          |            |            |            |            |            |            |            |
| 29 | <u>Accrued at</u>    |          |            |            |            |            |            |            |            |
| 30 | <u>Least This</u>    |          |            |            |            |            |            |            |            |
| 31 | <u>Many Credits</u>  |          |            |            |            |            |            |            |            |
| 32 | <u>With At Least</u> | <u>0</u> | <u>1.3</u> | <u>1.5</u> | <u>1.7</u> | <u>1.8</u> | <u>2.0</u> | <u>2.0</u> | <u>2.0</u> |
| 33 | <u>This Grade</u>    |          |            |            |            |            |            |            |            |
| 34 | <u>Point Average</u> |          |            |            |            |            |            |            |            |
| 35 | <u>and,</u>          |          |            |            |            |            |            |            |            |

|    |                      |            |            |            |            |
|----|----------------------|------------|------------|------------|------------|
| 36 | <u>Before Being</u>  | <u>9</u>   | <u>10</u>  | <u>11</u>  | <u>12</u>  |
| 37 | <u>Certified</u>     |            |            |            |            |
| 38 | <u>for This</u>      |            |            |            |            |
| 39 | <u>Payment</u>       |            |            |            |            |
| 40 | <u>A Student</u>     | <u>68</u>  | <u>78</u>  | <u>88</u>  | <u>98</u>  |
| 41 | <u>Must Have</u>     |            |            |            |            |
| 42 | <u>Accrued at</u>    |            |            |            |            |
| 43 | <u>Least This</u>    |            |            |            |            |
| 44 | <u>Many Credits</u>  |            |            |            |            |
| 45 | <u>With At Least</u> | <u>2.0</u> | <u>2.0</u> | <u>2.0</u> | <u>2.0</u> |

1 This Grade  
 2 Point Average

3 (viii) For students first receiving aid in two thousand nine--two  
 4 thousand ten, and thereafter, and are not enrolled in a program of reme-  
 5 dial study approved by the commissioner, and enrolled in two-year under-  
 6 graduate programs whose terms are organized on a trimester basis:

7 Before Being    1    2    3    4    5    6    7    8    9  
 8 Certified  
 9 for This  
 10 Payment

11 A Student        0    2    6    12   20   28   38   48   58  
 12 Must Have  
 13 Accrued at  
 14 Least This  
 15 Many Credits

16 With At Least   0    1.2   1.4   1.5   1.6   1.8   2.0   2.0   2.0  
 17 This Grade  
 18 Point Average

19 § 3. Subdivision 6 of section 665 of the education law is amended by  
 20 adding a new paragraph d to read as follows:

21 d. For purposes of paragraph c of this subdivision, students enrolled  
 22 in a program of remedial study shall mean students who are enrolled in  
 23 remedial courses equivalent to at least six credits in their initial  
 24 term and at least twelve credits in their first year and whose scores on  
 25 recognized college placement exams indicate the need for remediation.

26 § 4. This act shall take effect July 1, 2009.

27 PART D

28 Section 1. Paragraphs b and c of subdivision 6 of section 661 of the  
 29 education law are REPEALED, paragraph d is relettered paragraph e, and  
 30 three new paragraphs b, c, and d are added to read as follows:

31 b. A student who is in default on a student loan made under the Feder-  
 32 al Family Education Loan Program or the William D. Ford Direct Loan  
 33 Program shall be ineligible to receive any award or loan pursuant to  
 34 this article until the student cures the default status pursuant to  
 35 federal law and regulation.

36 c. A student who is in default on a non-federal student loan that was  
 37 made or guaranteed by the corporation shall be ineligible to receive any  
 38 award or loan pursuant to this article until the student cures the  
 39 default status pursuant to regulations promulgated by the corporation.

40 d. A student who has failed to comply with the terms of any service  
 41 condition imposed by an award made pursuant to this article or has  
 42 failed to repay an award made pursuant to this article, as required by  
 43 paragraph a of subdivision four of section six hundred sixty-five of  
 44 this article, shall be ineligible to receive any award or loan pursuant  
 45 to this article so long as such failure to comply or repay continues.

46 § 2. This act shall take effect July 1, 2009; provided further that  
 47 the provisions of this act shall apply to any student who is in default  
 48 in the repayment of any student loan or under the terms of any award  
 49 pursuant to this article.

1

## PART E

2 Section 1. Subdivision 2 of section 667 of the education law, as added  
3 by chapter 83 of the laws of 1995, is amended to read as follows:

4 2. Duration. No undergraduate shall be eligible for more than four  
5 academic years of study, or five academic years if the program of study  
6 normally requires five years. Students enrolled in a program of remedial  
7 study, approved by the commissioner in an institution of higher educa-  
8 tion and intended to culminate in a degree in undergraduate study shall,  
9 for purposes of this section, be considered as enrolled in a program of  
10 study normally requiring five years. An undergraduate student enrolled  
11 in an eligible two year program of study approved by the commissioner  
12 shall be eligible for no more than three academic years of study. [No  
13 graduate student shall be eligible for more than four academic years of  
14 study provided, however, that no graduate student shall be eligible for  
15 more than one degree program at the master's, first professional or  
16 doctorate level. No student shall be eligible for a total of more than  
17 the equivalent of eight years of combined undergraduate and graduate  
18 study.] Any semester, quarter, or term of attendance during which a  
19 student receives any award under this article, after the effective date  
20 of the former scholar incentive program and prior to academic year nine-  
21 teen hundred eighty-nine-nineteen hundred ninety, shall be counted  
22 toward the maximum term of eligibility for tuition assistance under this  
23 section, except that any semester, quarter or term of attendance during  
24 which a student received an award pursuant to section six hundred  
25 sixty-six of this [article] subpart shall be counted as one-half of a  
26 semester, quarter or term, as the case may be, toward the maximum term  
27 of eligibility under this section. Any semester, quarter or term of  
28 attendance during which a student received an award pursuant to section  
29 six hundred sixty-seven-a of this [article] subpart shall not be counted  
30 toward the maximum term of eligibility under this section.

31 § 2. Paragraph c of subdivision 3 of section 667 of the education law  
32 is REPEALED and paragraph d is relettered paragraph c.

33 § 3. Paragraph a of subdivision 5 of section 663 of the education law  
34 is REPEALED.

35 § 4. Paragraph b of subdivision 5 of section 663 of the education law,  
36 as amended by chapter 622 of the laws of 2008, is amended to read as  
37 follows:

38 [(b)] In the determination of income for purposes of paragraphs a and  
39 b of subdivision three of section six hundred sixty-seven of this part  
40 if, during the academic year in which the applicant will receive an  
41 award, one of either the parents of the applicant or other dependent  
42 child of such parents, the spouse of the applicant, or one or more  
43 dependent children of the applicant, in addition to the applicant, will  
44 be in full-time attendance in an approved program, the combined net  
45 taxable income determined under subdivision one of this section shall be  
46 reduced by three thousand dollars and an additional two thousand dollars  
47 for each other such person additional to the aforesaid persons (includ-  
48 ing the applicant) who will be in such attendance, and the resulting  
49 amount shall be deemed the applicable income in determining the appli-  
50 cant's award for the academic year.

51 § 5. Paragraph a of subdivision 3 of section 663 of the education law,  
52 as amended by chapter 62 of the laws of 1977, is amended to read as  
53 follows:

1 a. In determining the amount of an award for [graduate and] undergrad-  
2 uate students, the income of the parents shall be excluded if the  
3 student has been emancipated from his parents.

4 § 6. The opening paragraph of subparagraph 1 of paragraph b of subdivi-  
5 sion 3 of section 663 of the education law, as amended by chapter 101  
6 of the laws of 1992, is amended to read as follows:

7 The applicant is a student who was married on or before December thir-  
8 ty-first of the calendar year prior to the beginning of the academic  
9 year for which application is made or is an undergraduate student who  
10 has reached the age of twenty-two on or before June thirtieth prior to  
11 the academic year for which application is made [or is a graduate  
12 student,] and who, during the calendar year next preceding the semester,  
13 quarter or term of attendance for which application is made and at all  
14 times subsequent thereto up to and including the entire period for which  
15 application is made:

16 § 7. Paragraph d of subdivision 3 of section 663 of the education law  
17 is REPEALED and paragraph e is relettered paragraph d.

18 § 8. This act shall take effect July 1, 2009.

19

## PART F

20 Section 1. Subdivision 1 of section 663 of the education law, as  
21 amended by chapter 305 of the laws of 2008, is amended to read as  
22 follows:

23 1. Income defined. Except as otherwise provided in this section,  
24 "income" shall be the total of the combined net taxable income and  
25 income from pensions of New York state, local governments and the feder-  
26 al government of the applicant, the applicant's spouse, and the appli-  
27 cant's parents as reported in New York state income tax returns for the  
28 calendar year next preceding the beginning of the school year for which  
29 application for assistance is made, except that any amount received by  
30 an applicant as a scholarship at an educational institution or as a  
31 fellowship grant, including the value of contributed services and accom-  
32 modations, shall not be included within the definition of "income" for  
33 the purposes of this article. The term "parent" shall include birth  
34 parents, stepparents, adoptive parents and the spouse of an adoptive  
35 parent. Income, if not a whole dollar amount, shall be assumed to be  
36 equal to the next lowest whole dollar amount. Any change in the status  
37 of an applicant with regard to the persons responsible for the appli-  
38 cant's support occurring after the beginning of any semester shall not  
39 be considered to change the applicant's award for that semester.

40 § 2. This act shall take effect July 1, 2009.

41

## PART G

42 Section 1. Subdivisions 5 and 6 of section 355 of the education law,  
43 subdivision 5 as added by chapter 552 of the laws of 1985, paragraph a  
44 of subdivision 5 as amended by chapter 682 of the laws of 2007, para-  
45 graph c of subdivision 5 as added by chapter 103 of the laws of 1989,  
46 paragraph d of subdivision 5 as added by chapter 537 of the laws of  
47 1997, subdivision 6 as amended by chapter 554 of the laws of 1985, are  
48 amended to read as follows:

49 5. Notwithstanding the provisions of [paragraph] subdivision two of  
50 section one hundred twelve and sections one hundred fifteen, one hundred  
51 sixty-one[,] and one hundred sixty-three [and one hundred seventy-four]  
52 of the state finance law and sections three and six of the New York



1 state printing and public documents law or any other law to the contra-  
2 ry, the state university trustees are authorized and empowered to:

3 a. (i) purchase materials, equipment and supplies, including computer  
4 equipment and motor vehicles[, where the amount for a single purchase  
5 does not exceed twenty thousand dollars], (ii) execute contracts for  
6 services, permits, licenses, leases, and construction contracts [to an  
7 amount not exceeding twenty thousand dollars], and (iii) contract for  
8 printing [to an amount not exceeding five thousand dollars], without  
9 prior approval by any other state officer or agency[, but subject to  
10 rules and regulations of the state comptroller not otherwise inconsis-  
11 ent with the provisions of this section and] in accordance with [the]  
12 rules [and] or regulations promulgated by the state university board of  
13 trustees after consultation with the state comptroller. [In addition,  
14 the trustees, after consultation with the commissioner of general  
15 services, are authorized to annually negotiate with the state comp-  
16 troller increases in the aforementioned dollar limits and the exemption  
17 of any articles, categories of articles or commodities from these  
18 limits.] Rules [and] or regulations promulgated by the state university  
19 board of trustees shall, to the extent practicable, require that compet-  
20 itive proposals be solicited for purchases, and shall include require-  
21 ments that purchases and contracts authorized under this section be at  
22 the lowest available price, including consideration of prices available  
23 through other state agencies, consistent with quality requirements, and  
24 as will best promote the public interest. Such purchases may be made  
25 directly from any contractor pursuant to any contract for commodities  
26 let by the office of general services or any other state agency;

27 b. to establish cash advance accounts for the purpose of purchasing  
28 materials, supplies, or services, for cash advances for travel expenses  
29 and per diem allowances, or for advance payment of wages and salary. The  
30 account may be used to purchase such materials, supplies, or services  
31 where the amount of a single purchase does not exceed two hundred fifty  
32 dollars, in accordance with such guidelines as shall be prescribed by  
33 the state university trustees after consultation with the state comp-  
34 troller.

35 c. establish guidelines in consultation with the commissioner of  
36 general services authorizing participation by the state university in  
37 programs administered by the office of general services for the purchase  
38 of available New York state food products. The commissioner of general  
39 services shall provide assistance to the state university necessary to  
40 enable the university to participate in these programs.

41 [d. (1) Award contract extensions for campus transportation without  
42 competitive bidding where such contracts were secured either through  
43 competitive bidding or through evaluation of proposals in response to a  
44 request for proposals pursuant to subparagraph (2) of this paragraph,  
45 however such extensions may be rejected if the amount to be paid to the  
46 contractor in any year of such proposed extension fails to reflect any  
47 decrease in the regional consumer price index for the New York, New  
48 York-Northeastern, New Jersey area, based upon the index for all urban  
49 consumers (CPI-U) during the preceding twelve-month period. At the time  
50 of any contract extension, consideration shall be given to any compet-  
51 itive proposal offered by a public transportation agency. Such contract  
52 may be increased for each year of the contract extension by an amount  
53 not to exceed the regional consumer price index increase for the New  
54 York, New York-Northeastern, New Jersey area, based upon the index for  
55 all urban consumers (CPI-U), during the preceding twelve-month period,  
56 provided it has been satisfactorily established by the contractor that

1 there has been at least an equivalent increase in the amount of his cost  
2 of operation, during the period of the contract.]

3 6. To enter into any contract or agreement deemed necessary or advis-  
4 able after consultation with appropriate state agencies for carrying out  
5 the objects and purposes of state university without prior review or  
6 approval by any state officer or agency [other than the state comp-  
7 troller and the attorney general] including contracts with non-profit  
8 corporations organized by officers, employees, alumni or students of  
9 state university for the furtherance of its objects and purposes.  
10 Contracts or agreements entered into with the federal government to  
11 enable participation in federal student loan programs, including any and  
12 all instruments required thereunder, shall not be subject to the  
13 requirements of section forty-one of the state finance law; provided,  
14 however, that the state shall not be liable for any portion of any  
15 defaults which it has agreed to assume pursuant to any such agreement in  
16 an amount in excess of money appropriated or otherwise lawfully avail-  
17 able therefor at the time the liability for payment arises.

18 § 2. Paragraph (a) of subdivision 2 and subdivision 3 of section 112  
19 of the state finance law, paragraph (a) of subdivision 2 as amended by  
20 section 2 of part D of chapter 56 of the laws of 2006 and subdivision 3  
21 as amended by chapter 319 of the laws of 1992, are amended to read as  
22 follows:

23 (a) Before any contract made for or by any state agency, department,  
24 board, officer, commission, or institution, except the office of general  
25 services, the state university of New York and the city university of  
26 New York, shall be executed or become effective, whenever such contract  
27 exceeds fifty thousand dollars in amount and before any contract made  
28 for or by the office of general services shall be executed or become  
29 effective, whenever such contract exceeds eighty-five thousand dollars  
30 in amount, it shall first be approved by the comptroller and filed in  
31 his or her office, provided, however, that the comptroller shall make a  
32 final written determination with respect to approval of such contract  
33 within ninety days of the submission of such contract to his or her  
34 office unless the comptroller shall notify, in writing, the state agen-  
35 cy, department, board, officer, commission, or institution, prior to the  
36 expiration of the ninety day period, and for good cause, of the need for  
37 an extension of not more than fifteen days, or a reasonable period of  
38 time agreed to by such state agency, department, board, officer, commis-  
39 sion, or institution and provided, further, that such written determi-  
40 nation or extension shall be made part of the procurement record pursu-  
41 ant to paragraph f of subdivision one of section one hundred sixty-three  
42 of this chapter.

43 3. A contract or other instrument wherein the state or any of its  
44 officers, agencies, boards or commissions other than the state universi-  
45 ty of New York agrees to give a consideration other than the payment of  
46 money, when the value or reasonably estimated value of such consider-  
47 ation exceeds ten thousand dollars, shall not become a valid enforceable  
48 contract unless such contract or other instrument shall first be  
49 approved by the comptroller and filed in his office.

50 § 3. Subparagraph (iv) of paragraph a of subdivision 3 of section 163  
51 of the state finance law, as amended by chapter 430 of the laws of 1997,  
52 is amended to read as follows:

53 (iv) The commissioner is authorized to permit any officer, body or  
54 agency of the state or of a political subdivision or a district therein,  
55 or fire company or volunteer ambulance service as such are defined in  
56 section one hundred of the general municipal law, to make purchases of

1 commodities through the office of general services' centralized  
2 contracts, pursuant to the provisions of section one hundred four of the  
3 general municipal law. The commissioner is authorized to permit any  
4 county extension service association as authorized under subdivision  
5 eight of section two hundred twenty-four of the county law, or any asso-  
6 ciation or other entity as specified in and in accordance with section  
7 one hundred nine-a of the general municipal law, or any non-profit  
8 corporation organized in furtherance of the objects and purposes of the  
9 state university of New York, or any other association or entity as  
10 specified in state law, to make purchases of commodities through the  
11 office of general services' centralized contracts; provided, however,  
12 that such entity so empowered shall accept sole responsibility for any  
13 payment due with respect to such purchase; and provided further, howev-  
14 er, that commodities so purchased by a non-profit corporation organized  
15 in furtherance of the objects and purposes of the state university of  
16 New York shall not be used directly or indirectly by a for-profit corpo-  
17 ration or other entity which contracts with the non-profit corporation,  
18 nor shall such commodities so purchased by such non-profit corporation  
19 be offered for resale.

20 § 4. Paragraph e of subdivision 4 of section 163 of the state finance  
21 law, as amended by chapter 95 of the laws of 2000, is amended to read as  
22 follows:

23 e. Any officer, body or agency of a political subdivision as defined  
24 in section one hundred of the general municipal law or a district there-  
25 in, may make purchases of services through the office of general  
26 services' centralized contracts for services, subject to the provisions  
27 of section one hundred four of the general municipal law. The commis-  
28 sioner may permit and prescribe the conditions for the purchase of  
29 services through the office of general services' centralized contracts  
30 for services by any public authority or public benefit corporation of  
31 the state including the port authority of New York and New Jersey, or  
32 any non-profit corporation organized in furtherance of the objects and  
33 purposes of the state university of New York; provided, however, that  
34 services so purchased by a non-profit corporation organized in further-  
35 ance of the objects and purposes of the state university of New York  
36 shall not be used directly or indirectly by a for-profit corporation or  
37 other entity which contracts with the non-profit organization. The  
38 commissioner is authorized to permit any public library, association  
39 library, library system, cooperative library system, the New York  
40 Library Association, and the New York State Association of Library  
41 Boards or any other library except those which are operated by for  
42 profit entities, to make purchases of services through the office of  
43 general services' centralized contracts; provided, however, that such  
44 entity so empowered shall accept sole responsibility for any payment due  
45 with respect to such purchase.

46 § 5. Subdivision 16 of section 355 of the education law, as added by  
47 chapter 363 of the laws of 1998, is amended to read as follows:

48 16. Subject to laws and regulations applicable to the state university  
49 as a health care provider the state university trustees may:

50 a. Notwithstanding section one hundred sixty-three of the state  
51 finance law and section sixty-three of the executive law, authorize  
52 [contracts for] a state university health care facility [for partic-  
53 ipation] to participate in managed care networks and other joint and  
54 cooperative arrangements with public, non-profit or business entities  
55 [including entering into a maximum of twenty network arrangements per  
56 year,] as partners, joint venturers, members of limited liability corpo-

1 rations, members of non-profit corporations and shareholders of business  
2 corporations, and for the provision of management and administrative  
3 services by or for state university. Any contract for the provision of  
4 management services shall be subject to any provision of the public  
5 health law and health regulations applicable to the state university as  
6 a health care provider, including any review by the commissioner of  
7 health pursuant to 10 NYCRR section 405.3(f). In addition, the commis-  
8 sioner of health shall provide for public comment within thirty days of  
9 a submission of any management contract required to be reviewed pursuant  
10 to regulation. The trustees may also authorize contracts, including  
11 [capitation] risk-sharing contracts, for a state university health care  
12 facility for the provision of general comprehensive and specialty health  
13 care services, directly or through contract with other service providers  
14 or entities, including state university employees or entities comprised  
15 thereof. Contracts authorized hereunder shall be:

16 (1) consistent with trustee guidelines respecting all terms and condi-  
17 tions necessary and appropriate for managed care networks and other  
18 [network,] joint or cooperative arrangements, including guidelines  
19 governing the awarding of such contracts, guidelines for comparative  
20 review where appropriate, and conflict-of-interest guidelines;

21 (2) subject to laws and regulations applicable to the state university  
22 as a health care provider, including with respect to rates and certifi-  
23 cates of need; and

24 (3) subject to article fourteen of the civil service law and the  
25 applicable provisions of agreements between the state and employee  
26 organizations pursuant to article fourteen of the civil service law.

27 b. (1) Notwithstanding the provisions of [subdivision two of section  
28 one hundred twelve of the state finance law relating to the dollar  
29 threshold requiring the comptroller's approval of contracts and] subdi-  
30 vision six of section one hundred sixty-three of the state finance law  
31 and section sixty-three of the executive law, authorize contracts for  
32 the purchase of goods and services for state university health care  
33 facilities without prior approval by any other state officer or agency:

34 [(1)] (A) for any contract [which does not exceed seventy-five thou-  
35 sand dollars] for goods or services or for any revenue contract; or

36 [(2)] (B) for joint or group purchasing arrangements [which do not  
37 exceed seventy-five thousand dollars without prior approval by any other  
38 state, officer or agency] in accordance with procedures and requirements  
39 found in paragraph a of subdivision five of this section.

40 [(3) contracts] (2) Contracts authorized hereunder shall be subject to  
41 article fourteen of the civil service law and the applicable provisions  
42 of agreements between the state and employee organizations pursuant to  
43 article fourteen of the civil service law and shall be consistent with  
44 trustee guidelines governing the awarding of such contracts, comparative  
45 review where appropriate, and conflict-of-interest guidelines.

46 [The trustees are authorized to negotiate annually with the state  
47 comptroller increases in the aforementioned dollar limits.]

48 c. Authorize contracts for the acquisition by state university health  
49 care facilities of facilities suitable for the delivery of health care  
50 services, by purchase, lease, sublease, transfer of jurisdiction or  
51 otherwise[, of facilities suitable for the delivery of health care  
52 services] and for the construction, repair, maintenance, equipping,  
53 rehabilitation or improvement thereof. Such facilities may be acquired  
54 in whole or in part by state university health care facilities, either  
55 directly or through ownership in a joint or cooperative arrangement  
56 authorized by paragraph a of this subdivision. Such contracts shall be

1 [subject to approval by the attorney general as to form and by the  
2 director of the budget and the state comptroller] consistent with trust-  
3 tee guidelines governing the awarding of such contracts, including  
4 guidelines requiring comparative review where appropriate and conflict  
5 of interest guidelines. Contracts under this paragraph shall be funded  
6 from any moneys lawfully available for the expenses of the state univer-  
7 sity health care facilities.

8 d. The state university shall provide by July fifteenth of each year  
9 to the director of the budget and to the chairs of the senate finance  
10 committee and the assembly ways and means committee a report which sets  
11 forth with respect to contracts entered into during the prior year by  
12 state university health care facilities (1) the amount, purpose, and  
13 duration of contracts and arrangements entered into pursuant to para-  
14 graphs a and c of this subdivision, (2) a listing of contracts over the  
15 amount of two hundred fifty thousand dollars entered into pursuant to  
16 clause (A) of subparagraph one of paragraph b of this subdivision, and  
17 (3) the amount, purpose and duration of contracts over the amount of two  
18 hundred fifty thousand dollars entered into pursuant to clause (B) of  
19 subparagraph one of paragraph b of this subdivision.

20 § 6. Subdivisions 8 and 12 of section 373 of the education law, as  
21 added by chapter 251 of the laws of 1962, are amended to read as  
22 follows:

23 8. To design, construct, acquire, reconstruct, rehabilitate and  
24 improve academic buildings, dormitories and other facilities for the  
25 state university [in accordance with sections three hundred seventy-five  
26 and three hundred seventy-six of this chapter] using any project deliv-  
27 ery method, including but not limited to, design, bid, build,  
28 design/build, or construction manager at risk, that will assist the fund  
29 in fulfilling its purposes under section three hundred seventy-two of  
30 this article;

31 12. To [make] procure and execute contracts, lease agreements, and all  
32 other instruments necessary or convenient for the exercise of its corpo-  
33 rate powers and the fulfillment of its corporate purposes under this  
34 article. Notwithstanding any other law to the contrary, all such fund  
35 procurements shall be subject only to procurement guidelines that are  
36 annually adopted by the fund trustees, which shall substantially conform  
37 to the provisions of title four of article nine of the public authori-  
38 ties law;

39 § 7. Subdivision 8 of section 376 of the education law, as added by  
40 chapter 251 of the laws of 1962, the opening paragraph and paragraph a  
41 as amended by chapter 877 of the laws of 1990, paragraph f as added by  
42 chapter 769 of the laws of 1978, is amended to read as follows:

43 8. All contracts which are to be awarded pursuant to this subdivision  
44 shall be awarded by public letting or pursuant to procurement guidelines  
45 approved annually by the fund trustees and in accordance with the  
46 following provisions, notwithstanding any contrary provision of section  
47 one hundred twelve, one hundred thirty-five, one hundred thirty-six, one  
48 hundred thirty-nine or one hundred forty of the state finance law or any  
49 other law, provided, however, that where the estimated expense of any  
50 contract which may be awarded pursuant to this subdivision is less than  
51 two hundred fifty thousand dollars, a performance bond and a bond for  
52 the payment of labor and material may, in the discretion of the fund,  
53 not be required, and except that in the discretion of the fund, a  
54 contract may be entered into for such purposes without public letting  
55 where the estimated expense thereof is less than twenty thousand  
56 dollars, or where in the judgment of the fund an emergency condition

1 exists as a result of damage to an existing academic building, dormitory  
2 or other facility which has been caused by an act of God, fire or other  
3 casualty, or any other unanticipated, sudden and unexpected occurrence,  
4 that has resulted in damage to or a malfunction in an existing academic  
5 building, dormitory or other facility and involves a pressing necessity  
6 for immediate repair, reconstruction or maintenance in order to permit  
7 the safe continuation of the use or function of such facility, or to  
8 protect the facility or the life, health or safety of any person, and  
9 the nature of the work is such that in the judgment of the fund it would  
10 be impractical and against the public interest to have public letting;  
11 provided, however, that the fund, prior to awarding a contract hereunder  
12 because of an emergency condition notify the comptroller of its intent  
13 to award such a contract:

14 a. [If contracts are to be publicly let, the] The letting agency shall  
15 advertise the invitation to bid or the request for proposals in a news-  
16 paper published in the city of Albany and in such other newspapers as  
17 will be most likely in its opinion to give adequate notice to contrac-  
18 tors of the work required [and of the invitation to bid] provided,  
19 however, that where the estimated expense of any contract which may be  
20 awarded pursuant to this subdivision is less than two hundred fifty  
21 thousand dollars, the letting agency may advertise the invitation to bid  
22 solely through the procurement opportunities newsletter published pursu-  
23 ant to section one hundred forty-two of the economic development law.  
24 The invitation to bid or request for proposals shall contain such infor-  
25 mation as the letting agency shall deem appropriate [and a statement of  
26 the time and place where all bids received pursuant to such notice will  
27 be publicly opened and read].

28 b. The letting agency shall not award any contract after public  
29 bidding except to the lowest bidder who in its opinion is qualified to  
30 perform the work required and is responsible and reliable. The letting  
31 agency may, however, reject any or all bids, again advertise for bids,  
32 or waive any informality in a bid if it believes that the public inter-  
33 est will be promoted thereby.

34 c. The invitation to bid, request for proposals and the contract  
35 awarded shall contain such other terms and conditions, and such  
36 provisions for penalties, as the letting agency may deem desirable.

37 d. [The form of any] Any contract awarded pursuant to this subdivision  
38 [shall be approved by the attorney general and by the comptroller and]  
39 shall contain a clause that the contract shall be deemed executory to  
40 the extent of the moneys available and that no liability shall be  
41 incurred by the fund beyond the moneys available therefor.

42 e. The letting agency shall require such deposits, bonds and security  
43 in connection with the submission of bids or request for proposals, the  
44 award of contracts and the performance of work as it shall determine to  
45 be in the public interest and for the protection of the state, the state  
46 university, the fund and the letting agency.

47 f. Notwithstanding the provisions of any other law to the contrary,  
48 all contracts for public work awarded by the state university  
49 construction fund pursuant to this subdivision shall be in accordance  
50 with section one hundred thirty-nine-f of the state finance law.

51 § 8. Subdivision 1 of section 17 of the public officers law is amended  
52 by adding a new paragraph (w) to read as follows:

53 (w) For the purposes of this section, the term "employee" shall  
54 include any student enrolled full-time or part-time in a credit bearing  
55 course offered by a state-operated institution in the state university  
56 of New York for which there is a course requirement to complete a super-

1 vised clinical or experienced-based affiliation at an affiliate's site,  
2 as specified in a valid affiliation contract, including but not limited  
3 to internships and services provided to other entities by student volun-  
4 teers at university-sponsored clinics.

5 § 9. Section 6218 of the education law, as amended by chapter 697 of  
6 the laws of 1993, is amended to read as follows:

7 § 6218. Contracts and purchases. a. Notwithstanding the provisions of  
8 [paragraph] subdivision two of section one hundred twelve [and  
9 sections], section one hundred fifteen, subdivision three of section one  
10 hundred sixty, section one hundred sixty-one[,], and section one hundred  
11 sixty-three [and one hundred seventy-four] of the state finance law and  
12 sections three and six of the New York state printing and public docu-  
13 ments law or any other law to the contrary, the city university [trus-  
14 tees are] is authorized and empowered to[:

15 (i) purchase materials, equipment and supplies, including computer  
16 equipment and motor vehicles, where the amount for a single purchase  
17 does not exceed twenty thousand dollars, (ii) execute contracts for  
18 services to an amount not exceeding twenty thousand dollars, and (iii)  
19 contract for printing to an amount not exceeding five thousand dollars,]  
20 execute procurement contracts both for commodities, including technology  
21 and motor vehicles and for services, including printing, technology and  
22 construction and construction related services, without prior approval  
23 by any other state officer or agency, but subject to rules and regu-  
24 lations of the state comptroller not otherwise inconsistent with the  
25 provisions of this section and in accordance with the rules and regu-  
26 lations promulgated by the city university board of trustees after  
27 consultation with the state comptroller. [In addition, the trustees are  
28 authorized to annually negotiate with the state comptroller increases in  
29 the aforementioned dollar limits and the exemption of any articles,  
30 categories of articles or commodities from these limits. Rules and regu-  
31 lations promulgated by the city university board of trustees shall, to  
32 the extent practicable, require that competitive proposals be solicited  
33 for purchases, and shall include requirements that purchases and  
34 contracts authorized under this section be at the lowest possible  
35 price.]

36 b. [Except as hereinafter provided, no contract for work or labor or  
37 the purchase of supplies, material, or equipment or for the construction  
38 or the alteration of any building or facility involving an expenditure  
39 or liability of more than twenty thousand dollars shall be entered into  
40 by the board of trustees, unless said board of trustees shall have duly  
41 advertised for bids for the same for a period of not less than five days  
42 under regulations to be approved by the board of trustees and the  
43 contract in each case shall be awarded to the lowest responsible bidder  
44 furnishing the security as required by the board of trustees. If two or  
45 more bids are tied, and are the lowest bids submitted by responsible  
46 bidders furnishing the security as required by the board, the board of  
47 trustees may award the contract to any of said tied bidders.

48 c. If the several parts of the work or labor to be done and/or the  
49 supplies, materials or equipment to be furnished shall together involve  
50 an expenditure of not more than twenty thousand dollars, the same may be  
51 procured on an order awarded to the lowest responsible bidder upon bids  
52 submitted without public advertisement under such regulations as shall  
53 be made by the board of trustees. Purchases of five thousand dollars or  
54 less may be made without competition.

55 d. The board of trustees, if it shall deem it in the public interest,  
56 may reject all bids.

1 e. Upon the adoption of a resolution by a vote of at least two-thirds  
2 of the members of the board of trustees by vote at a meeting, stating  
3 that, for reasons of efficiency or economy, there is need for standardi-  
4 zation, purchase contracts for a particular type or kind of equipment,  
5 materials, or supplies of more than twenty thousand dollars may be  
6 awarded to the lowest responsible bidder furnishing the required securi-  
7 ty after advertisement for bids in the manner provided in this section.  
8 Such resolution shall contain a full explanation of the reasons for its  
9 adoption. Purchase contracts for a particular type or kind of equipment,  
10 materials or supplies of not more than twenty thousand dollars may be  
11 awarded to the lowest responsible bidder upon bids submitted without  
12 public advertisement under such regulations as shall be made by the  
13 board of trustees.

14 f. Surplus or second-hand supplies, materials or equipment may be  
15 purchased without competitive bidding from the federal government, the  
16 state of New York or from any political subdivision of the state.

17 g. The board of trustees is authorized to establish cash advance  
18 accounts for the purpose of purchasing materials, supplies, or services,  
19 for cash advances for travel expenses and per diem allowances, or for  
20 advance payment of wages and salary. The account may be used to  
21 purchase such materials, supplies, or services where the amount of a  
22 single purchase does not exceed two hundred fifty dollars in accordance  
23 with such guidelines as shall be prescribed by the city university trus-  
24 tees after consultation with the state comptroller.

25 h. Notwithstanding any of the provisions of this section, the board of  
26 trustees may make purchases, when available, through the state of New  
27 York, the city of New York, the federal government or the board of  
28 education of the city of New York, provided that the board of trustees  
29 shall accept sole responsibility for any payment due the vendor.]

30 The city university is further authorized and empowered to establish  
31 guidelines which shall (i) include requirements that purchases and  
32 contracts authorized under this section be awarded to a responsive and  
33 responsible offeror; (ii) require maximum practical competition; (iii)  
34 permit award of the contract to any of the tied offerors if two or more  
35 bids are tied; and (iv) permit the rejection of all offers in the public  
36 interest.

37 c. The city university is further authorized and empowered to make  
38 purchases, when available, through the use of a contract let by any  
39 department, agency or instrumentality of the United States government  
40 and/or any department, agency, office, political subdivision, instrumen-  
41 tality or municipality of any state or states.

42 d. The city university is further authorized and empowered to make  
43 purchases, when available, of surplus or second-hand commodities,  
44 including technology and motor vehicles, without competitive bidding,  
45 from any department, agency or instrumentality of the United States  
46 government and/or any department, agency, office, political subdivision,  
47 instrumentality or municipality of any state or states.

48 e. The city university is further authorized and empowered to estab-  
49 lish cash advance accounts for the purpose of purchasing commodities,  
50 renovations or services, for cash advances for travel expenses and per  
51 diem allowances, or for advance payment of wages and salary. Such  
52 accounts may be used to purchase such commodities, renovations or  
53 services where the amount of a single purchase does not exceed one thou-  
54 sand dollars, in accordance with the guidelines established by the city  
55 university after consultation with the state comptroller.





1 § 10. This act shall take effect immediately; provided however that  
 2 the amendments to section 163 of the state finance law made by sections  
 3 three and four of this act shall not affect the repeal of such section  
 4 pursuant to chapter 83 of the laws of 1995, as amended, and shall be  
 5 deemed repealed therewith.

6

## PART H

7 Section 1. Section 667 of the education law is amended by adding a new  
 8 subdivision 4 to read as follows:

9 4. Proration of award. a. For purposes of prorating awards under this  
 10 section, a student enrolled for at least fifteen semester credits, or  
 11 its equivalent, shall be eligible for a full award.

12 b. Awards calculated pursuant to subdivision three of this section  
 13 shall be prorated based upon enrolled credits at the time the tuition  
 14 liability is incurred or on the date in which the college or institution  
 15 reports enrollment status for federal title IV programs, whichever is  
 16 later. Students enrolled in fewer than fifteen semester credits and  
 17 more than nine semester credits or their equivalent, shall have their  
 18 awards prorated using an enrollment factor. The enrollment factor shall  
 19 be the percentage obtained by dividing the number of enrolled credits as  
 20 certified by the school (the numerator), by fifteen semester credits or  
 21 its equivalent (the denominator).

22 c. Any semester, quarter or term of attendance during which a student  
 23 receives a prorated award shall be counted as the enrollment factor  
 24 percent of a semester, quarter or term toward the maximum term of eligi-  
 25 bility for tuition assistance awards. The total period of study for  
 26 which payment may be made shall not exceed the equivalent of the maximum  
 27 period authorized for that award.

28 § 2. Subdivision 2 of section 667-c of the education law, as added by  
 29 section 1 of part N of chapter 58 of the laws of 2006, is amended to  
 30 read as follows:

31 2. For purposes of this section, a part-time student is one who:

32 a. enrolled as a first-time freshman during the two thousand six--two  
 33 thousand seven academic year or thereafter at a college or university  
 34 within the state university, including a statutory or contract college,  
 35 a community college established pursuant to article one hundred twenty-  
 36 six of this chapter, the city university of New York, or a non-profit  
 37 college or university incorporated by the regents or by the legislature;

38 b. has earned at least twelve credits in each of two consecutive  
 39 semesters at one of the institutions named in paragraph a of this subdi-  
 40 vision by the time of the awards;

41 c. is enrolled for at least six but less than [twelve] ten semester  
 42 hours, or the equivalent, per semester in an approved undergraduate  
 43 degree program; and

44 d. has a cumulative grade-point average of at least 2.00.

45 § 3. Paragraph (a) of subdivision 3 of section 667-c of the education  
 46 law, as added by section 1 of part N of chapter 58 of the laws of 2006,  
 47 is amended to read as follows:

48 a. For part-time students defined in this section, the award shall be  
 49 calculated as provided in section six hundred sixty-seven of this arti-  
 50 cle and shall be in an amount equal to the enrollment factor percent of  
 51 the award the student would have been eligible for if the student were  
 52 enrolled [full-time] in fifteen semester credits or its equivalent. The  
 53 enrollment factor percent is the percentage obtained by dividing the  
 54 number of credits [the student is enrolled in], as certified by the



1 school (the numerator), [by the number of credits required for full-time  
2 study in the semester, quarter or term as defined by the commissioner]  
3 by fifteen semester credits or its equivalent (the denominator).

4 § 4. This act shall take effect July 1, 2009.

5 PART I

6 Section 1. Subdivision 5 of section 663 of the education law is  
7 REPEALED and subdivisions 6, 7, 8 and 9 are renumbered as subdivisions  
8 5, 6, 7 and 8.

9 § 2. This act shall take effect July 1, 2009.

10 PART J

11 Section 1. Article 14 of the education law is amended by adding a new  
12 Part V to read as follows:

13 PART V  
14 THE NEW YORK HIGHER EDUCATION LOAN PROGRAM

15 Section 690. Definitions.

- 16 691. Powers and duties.
- 17 692. Education loans; special requirements.
- 18 693. Repayment of loans.
- 19 694. Sale of education loans.
- 20 694-a. Miscellaneous.
- 21 694-b. Reporting.

22 § 690. Definitions. As used in this part, the following terms shall  
23 have the following meanings unless otherwise specified:

- 24 1. "Education loan" shall mean any loan that is made by a lending  
25 institution and guaranteed by the corporation under this program.
- 26 2. "Eligible borrower" or "borrower" shall mean (i) a student who is a  
27 resident of New York state attending, or accepted for enrollment at, an  
28 eligible college, or (ii) the parent or legal guardian of a student  
29 attending, or accepted for enrollment at, an eligible college who is a  
30 resident of New York state, and who obtains an education loan from a  
31 lending institution to pay for or finance higher education expenses  
32 under this program.
- 33 3. "Eligible college" shall mean a post-secondary institution, located  
34 within New York state, eligible for funds under Title IV of the Higher  
35 Education Act of nineteen hundred sixty-five, as amended, or successor  
36 statute offering a two-year, four-year, graduate or professional degree  
37 granting or certificate program.
- 38 4. "Eligible co-signer" shall mean a parent, legal guardian or other-  
39 wise credit worthy individual over twenty-one years of age who satisfies  
40 applicable credit criteria approved by the corporation and is a resident  
41 of New York state.
- 42 5. "Higher education expenses" shall mean the cost of attendance at an  
43 eligible college and shall include tuition and fees, books, room and  
44 board, and other educationally related expenses, as determined by the  
45 corporation.
- 46 6. "Lending institution" or "lender" shall mean any entity that itself  
47 or through an affiliate originates education loans, other than an entity  
48 authorized to finance the purchase or making of education loans through  
49 the issuance of bonds pursuant to the public authorities law.
- 50 7. "Program" shall mean the New York Higher Education Loan Program  
51 established by this article.

1 8. "Student" shall mean any individual who is enrolled at least half-  
2 time, as defined by the commissioner, in a two year, four year, graduate  
3 or professional degree granting or certificate program at an eligible  
4 college.

5 § 691. Powers and duties. In furtherance of the purposes set forth in  
6 this part, the corporation shall have the following additional powers  
7 and duties:

8 1. To market, originate, disburse, service, collect, administer, guar-  
9 antee, finance, and purchase education loans not in default status made  
10 under this program or contract for these services.

11 2. To purchase defaulted education loans made under this program.

12 3. To establish and maintain one or more default reserve funds and  
13 accounts within such funds, in accordance with the terms of this  
14 program.

15 4. To develop and administer or contract to administer one or more  
16 financial literacy programs.

17 5. To provide or contract to provide default aversion services.

18 6. To enter into participation agreements with, and establish criteria  
19 for, eligible colleges, lenders, and other entities such as, but not  
20 limited to, servicers, any entity authorized to finance the purchase or  
21 making of education loans through the issuance of bonds pursuant to the  
22 public authorities law, and any subsequent purchaser of education loans  
23 made under this program.

24 7. To establish criteria for all lender underwriting, education loan  
25 purchases, servicing and default insurance payments.

26 8. To establish criteria for the distribution of education loans made  
27 under this program.

28 9. To audit lenders and eligible colleges for program compliance.

29 10. To adopt rules and regulations to implement this program.

30 § 692. Education loans; special requirements. 1. Terms and conditions.

31 (a) eligible borrowers shall apply for education loans under this  
32 program on forms prescribed by the corporation;

33 (b) except as may be provided by regulation, applicants for education  
34 loans shall be required to first apply for: (i) their maximum eligibil-  
35 ity of loans under the Federal Family Education Loan Program (FFELP) and  
36 the Federal Direct Student Loan Program (FDSLPL), excluding PLUS loans;  
37 (ii) any other federal student aid, other than HEAL loans and other aid  
38 permitted by the corporation to be excluded; (iii) any state student  
39 aid; and (iv) any other student aid as prescribed by the corporation  
40 before being eligible for any education loan under this program;

41 (c) borrowers shall successfully complete a financial literacy course  
42 as prescribed by the corporation;

43 (d) student borrowers must apply for education loans under this  
44 program with an eligible co-signer;

45 (e) a borrower, or co-signer, who is in default on an education loan  
46 made under this program, the Federal Family Education Loan Program, the  
47 Williams D. Ford Program, or has failed to comply with the terms and  
48 conditions of any award under this article and has failed to satisfac-  
49 torily cure such default or non-compliance as prescribed by applicable  
50 law or regulation shall be ineligible to receive a loan under this  
51 program, and shall further be ineligible for any other state student aid  
52 while in default on an education loan made under this program; and

53 (f) participating eligible colleges, lending institutions, and other  
54 participants in this program shall be required to enter into a partic-  
55 ipation agreement with the corporation and comply with all reporting and  
56 processing requirements and procedures as established by the corpo-

1 ration. These participation agreements shall contain such other specif-  
2 ic terms and conditions of the program as shall be determined by the  
3 corporation.

4 2. Citizenship. A borrower must be (a) a citizen of the United States,  
5 or

6 (b) an alien lawfully admitted for permanent residence in the United  
7 States, or

8 (c) an individual of a class of refugees paroled by the attorney  
9 general of the United States under his or her parole authority pertain-  
10 ing to the admission of aliens to the United States.

11 3. Loan limits. Education loans made by lending institutions under  
12 this program shall have annual and cumulative loan limits as approved  
13 from time to time by the corporation.

14 4. Interest rates. The interest rate of loans made under this program  
15 shall be established in a manner that shall be approved at least annual-  
16 ly by the corporation, with the consent of the state of New York mort-  
17 gage agency, or other authorized public benefit corporation, with  
18 respect to loans that may be eligible for purchase by such entity, based  
19 upon consideration of market and other applicable conditions.

20 5. Fees. A percentage of the education loan shall be paid as a default  
21 fee, by either the borrower or the lender, in an amount to be estab-  
22 lished at least annually by the corporation. This fee may be added to  
23 the cost of attendance for the purposes of calculating the loan amount  
24 and shall be transmitted from the lender to the corporation in accord-  
25 ance with rules or regulations promulgated by the corporation. The  
26 corporation shall deposit these funds into a designated account within  
27 the New York higher education loan program variable rate default reserve  
28 fund, the New York higher education loan program fixed rate default  
29 reserve fund, or the state of New York mortgage agency New York higher  
30 education loan program default reserve fund, as applicable.

31 6. Consolidation. Education loans made pursuant to this program may be  
32 eligible for consolidation upon the terms and conditions established by  
33 the corporation. Any person consolidating education loans under this  
34 program shall be considered a borrower for purposes of this part.

35 7. Default reserve fund. (a) General provisions. One or more default  
36 reserve funds shall be established in the custody of the comptroller  
37 pursuant to sections seventy-eight-a and seventy-eight-b of the state  
38 finance law. These funds shall be used by the corporation to pay default  
39 claims to participating lenders and holders of education loans made  
40 pursuant to this program.

41 (b) Deposits. The corporation shall promptly deposit or transfer into  
42 the New York higher education loan program variable rate default reserve  
43 fund created by section seventy-eight-a of the state finance law, the  
44 New York higher education loan program fixed rate default reserve fund  
45 created by section seventy-eight-b of the state finance law or the state  
46 of New York mortgage agency New York higher education default reserve  
47 fund created by subdivision six of section two thousand four hundred  
48 five-a of the public authorities law, with respect to education loans,  
49 respectively, described in such provisions, any moneys received in  
50 connection with this program other than payments of principal and inter-  
51 est of education loans that are not in default status, including, but  
52 not limited to: (i) default fees; (ii) fees received from eligible  
53 colleges; (iii) funds received for the repayment of defaulted education  
54 loans, the unpaid principal, capitalized and unpaid accrued interest of  
55 which have been paid from the funds, including without limitation all  
56 such amounts received through the operation of voluntary collection

1 activities, administrative wage garnishment or credit of tax overpay-  
2 ments less any amounts received for collection fees assessed by the  
3 corporation; (iv) contractual penalties and subsidy fees; (v) any amount  
4 that may be appropriated to the corporation; (vi) any amount received by  
5 the corporation or any agent from any other source for deposit therein;  
6 and (vii) interest and investment income earned by the funds.

7 8. Lender due diligence. Participating lenders shall be required to  
8 perform all due diligence requirements as prescribed by the corporation  
9 and incorporated into the participation agreement and into regulations  
10 promulgated by the corporation.

11 9. Eligible college requirements. (a) Participating eligible colleges  
12 shall be required to certify loan eligibility upon forms prescribed by  
13 the corporation and incorporated into the participation agreement and  
14 pursuant to regulations promulgated by the corporation.

15 (b) Participating eligible colleges shall be required to contribute a  
16 one percent fee, based upon the loan dollar volume, or have the contrib-  
17 ution made on its behalf, pursuant to the terms of the participation  
18 agreement. These fees shall be deposited into a designated account with-  
19 in the New York higher education loan program variable rate default  
20 reserve fund, the New York higher education loan program fixed rate  
21 default reserve fund, or the state of New York mortgage agency New York  
22 higher education loan program default reserve fund, as applicable.

23 § 693. Repayment of loans. 1. Terms of repayment. The terms of repay-  
24 ment of education loans made under this program shall be established in  
25 rules and regulations promulgated by the corporation subject to the  
26 approval of the state of New York mortgage agency or other public bene-  
27 fit corporation authorized to issue bonds under this program.

28 2. Grace period. The terms of any grace period for education loans  
29 made under this program shall be established in rules and regulations  
30 promulgated by the corporation subject to the approval of the state of  
31 New York mortgage agency or other public benefit corporation authorized  
32 to issue bonds under this program.

33 3. Forbearance and deferments. Education loans made under this program  
34 shall be eligible for forbearance and/or deferments pursuant to rules  
35 and regulations promulgated by the corporation, or pursuant to such  
36 additional forbearance and/or deferments as offered by an eligible lend-  
37 er subject to the approval of the state of New York mortgage agency, or  
38 other authorized public benefit corporation, with respect to loans that  
39 may be eligible for purchase by such entity. Upon the purchase of a  
40 defaulted education loan made under this program, the borrower shall no  
41 longer be eligible for any forbearance or deferments while such loan  
42 remains in default.

43 4. Delinquency. A borrower shall be considered delinquent on an educa-  
44 tion loan under this program after sixty days of non-payment. The lender  
45 shall notify the corporation by the sixtieth day of delinquency and the  
46 corporation shall undertake actions to return the borrower to repayment  
47 pursuant to rules and regulations established by the corporation.

48 5. Default. Any education loan under this program that is delinquent  
49 for one hundred eighty days shall be deemed in default. Upon default,  
50 the lender shall file a claim with the corporation for payment on its  
51 guarantee pursuant to regulations promulgated by the corporation. Upon  
52 receipt of a claim, the corporation shall notify the borrower that their  
53 loan has been assigned to the corporation. The lender, or holder of  
54 education loans under this program, shall be paid one hundred percent of  
55 the outstanding principal, capitalized and unpaid accrued interest. Upon  
56 such payment by the corporation or the state of New York mortgage agen-

1 cy, this amount shall be the principal owed by the borrower to the  
2 corporation.

3 All collection payments received by the corporation from a borrower,  
4 or on behalf of borrowers, in default on loans made under this program  
5 shall be deposited into a designated account within the New York higher  
6 education loan program variable rate default reserve fund, New York  
7 higher education loan program fixed rate default reserve fund, or the  
8 state of New York mortgage agency New York higher education loan program  
9 default reserve fund, as applicable.

10 6. Collection fee. The corporation shall assess a collection fee, in  
11 an amount to be determined by the corporation at least annually, on all  
12 defaulted education loans under this program. This fee shall be retained  
13 by the corporation for the administration of the program.

14 7. Administrative wage garnishment. (a) Notwithstanding any provision  
15 of law to the contrary, the corporation shall be entitled to garnish the  
16 disposable pay of an individual to collect the amount owed by the indi-  
17 vidual, if such individual fails to make required voluntary payments  
18 under a repayment agreement with the corporation, provided that:

19 (i) The amount deducted for any pay period does not exceed fifteen  
20 percent of disposable pay. However, the amount deducted for any period  
21 may exceed fifteen percent with the written consent of the individual;

22 (ii) Prior to garnishment the individual shall have been given thirty  
23 days written notice to the individual's last known address advising such  
24 individual of the nature of the obligation, amount of the loan obli-  
25 gation, the corporation's intent to garnish and an explanation of the  
26 individual's rights under this section including the right to inspect  
27 and copy records relating to the debt;

28 (iii) The individual shall have been given an opportunity within the  
29 mentioned thirty days to enter into a written repayment agreement  
30 with the corporation to avoid garnishment of wages;

31 (iv) The individual shall have been provided an opportunity for a  
32 hearing pursuant to the requirements of paragraph (f) of this subdivi-  
33 sion.

34 (b) The individual's employer shall pay to the corporation amounts as  
35 directed in the withholding order and shall be liable for failure to  
36 comply with said order. The corporation may sue an employer in a court  
37 of competent jurisdiction to recover from such employer the amount the  
38 employer fails to withhold from the individual's wages following receipt  
39 of the order of withholding with interest thereon plus attorneys' fees  
40 and costs;

41 (c) The notice of withholding served upon the employer shall contain  
42 only such information as is necessary for the employer to comply with  
43 the withholding order.

44 (d) No amount may be deducted from the wages of an individual who has  
45 been involuntarily separated from employment and has not been contin-  
46 uously employed for twelve months. An individual must prove that sepa-  
47 ration from employment was involuntary. Separation due to incarceration  
48 shall not qualify as involuntary separation.

49 (e) An employer may not discharge from employment, take disciplinary  
50 action against or refuse to employ an individual by reason of the fact  
51 that such individual's wages are subject to an order of withholding.  
52 Such individual may take action against said employer in a court of  
53 competent jurisdiction for reinstatement, back pay or such further  
54 relief as may be just and necessary.

55 (f) A hearing as described in subparagraph (iv) of paragraph (a) of  
56 this subdivision shall be provided prior to an order of withholding if

1 the individual submits a written request for a hearing on or before the  
2 fifteenth day following the notice described in subparagraph (ii) of  
3 paragraph (a) of this subdivision in accordance with procedures set  
4 forth by the corporation. If an individual fails to submit a written  
5 request in the time frame provided, the corporation shall still provide  
6 a hearing upon receipt of a written request, but such hearing need not  
7 be provided prior to an order of withholding being issued to the employ-  
8 er. The hearing shall not be conducted by a party under the supervision  
9 or control of the corporation except that nothing shall prohibit the  
10 corporation from appointing an administrative law judge. A hearing deci-  
11 sion shall be issued no later than sixty days after the filing of the  
12 petition requesting the hearing.

13 (g) For purposes of this section "disposable pay" shall mean that part  
14 of the compensation of any individual from an employer remaining after  
15 deduction of amounts required to be withheld by law.

16 (h) All funds received through administrative wage garnishment shall  
17 be deposited into a designated account within the New York higher educa-  
18 tion loan program variable rate default reserve fund, the New York high-  
19 er education loan program fixed rate default reserve fund, or the state  
20 of New York mortgage agency New York higher education loan program  
21 default reserve fund, as applicable.

22 8. New York state tax offset. The corporation shall be entitled to  
23 receive credits of New York state tax overpayments pursuant to sections  
24 one hundred seventy-one and six hundred ninety-seven of the tax law with  
25 respect to defaulted education loans under this program. All funds, or  
26 credits, received through such tax offsets shall be deposited into a  
27 designated account within the New York higher education loan program  
28 variable rate default reserve fund, the New York higher education loan  
29 program fixed rate default reserve fund, or the state of New York mort-  
30 gage agency New York higher education loan program default reserve fund,  
31 as applicable.

32 9. Data share. The corporation shall be entitled to receive data from  
33 the New York state department of taxation and finance pursuant to  
34 sections one hundred seventy-one and six hundred ninety-seven of the tax  
35 law with respect to defaulted education loans under this program.

36 10. Statute of limitation. Notwithstanding any provision of law to the  
37 contrary, there shall be no statute of limitations to bring suit or  
38 otherwise collect an education loan under this program. Judgments in  
39 favor of the corporation under this program shall not expire and there  
40 shall be no statute of limitations upon which to enforce or collect said  
41 judgment.

42 11. Capacity of minors. Any person otherwise qualifying for an educa-  
43 tion loan under this program shall not be disqualified by reason of his  
44 or her being under the age of eighteen years and for the purposes of  
45 applying for, receiving and repaying such a loan, any such person shall  
46 be deemed to have full legal capacity to act. The corporation, in  
47 collecting education loans under this program, shall not be subject to a  
48 defense raised by any borrower based on a claim of infancy.

49 12. Usury. Notwithstanding any provision of law to the contrary, there  
50 shall be no limitation on the rate or amount of interest or fees payable  
51 on education loans made under this program.

52 13. Death and disability discharge. Upon the death of a borrower or a  
53 student, the education loan made under this program shall be deemed  
54 discharged. If the borrower becomes totally and permanently disabled, as  
55 defined by the corporation in regulation, the education loan under this  
56 program shall be deemed discharged. The lender or holder of such

1 discharged education loans shall be paid the outstanding principal,  
2 capitalized and unpaid accrued interest due from proceeds of the New  
3 York higher education loan program variable rate default reserve fund,  
4 the New York higher education loan program fixed rate default reserve  
5 fund, or the state of New York mortgage agency New York higher education  
6 loan program default reserve fund, as applicable.

7 14. Bankruptcy. Education loans under this program shall be considered  
8 non-dischargeable pursuant to section 523(a)(8) of the U.S. Bankruptcy  
9 Code.

10 15. Notwithstanding any other provision of law, other than section two  
11 thousand four hundred five-a of the public authorities law, a security  
12 interest in education loans shall be perfected only by the filing of a  
13 financing statement in the manner provided under section 9-310 of the  
14 uniform commercial code, and shall attach and be assigned priority in  
15 the manner provided under the uniform commercial code with respect to  
16 security interests perfected by such a filing, and a description of  
17 collateral consisting of education loans in any financing statement  
18 shall be conclusively deemed to be legally sufficient if it refers to  
19 records identifying such loans retained by the corporation, provided  
20 that any such security interest shall be subject to any applicable lien  
21 under section two thousand four hundred five-a of the public authorities  
22 law. The owner of any education loan shall advise the corporation of any  
23 sale or assignment of such loan at the time and in the manner required  
24 by the corporation.

25 16. Notwithstanding any other provision of law, any eligible public  
26 college or public career education institution is hereby authorized to  
27 enter into one or more agreements with the corporation and any entity  
28 authorized to finance education loans pursuant to the public authorities  
29 law providing for the participation of such college or career education  
30 institution in the program and to perform or contract the performance of  
31 its obligations under any such agreement. Such obligations may include  
32 without limitation the payment obligations described in this title.

33 § 694. Sale of education loans. 1. The corporation and participating  
34 lenders shall be authorized to enter into one or more agreements with  
35 entities for the sale of education loans made pursuant to this program.

36 2. Education loan purchases may be financed (i) by bonds issued by the  
37 state of New York mortgage agency, or other entity authorized to issue  
38 bonds for such purpose pursuant to the public authorities law, in an  
39 amount approved by the director of the division of the budget; or (ii)  
40 by other non-state sources in amounts established pursuant to an agree-  
41 ment with the corporation.

42 3. The corporation shall establish the criteria and terms upon which  
43 lenders may sell education loans subject to the approval of the state of  
44 New York mortgage agency or any other entity authorized to issue bonds  
45 under this program.

46 § 694-a. Miscellaneous. 1. No education loan shall be deemed subject  
47 to section one hundred eight of the banking law or to article nine of  
48 the banking law or to any other provisions of law governing the quali-  
49 fications to make the terms or conditions of loans described in this  
50 part, including, without limitation, the interest rates, fees and charg-  
51 es applicable thereto. Neither the corporation nor any entity authorized  
52 to finance education loans pursuant to the public authorities law shall  
53 be subject to any licensing requirements in connection with its educa-  
54 tion lending activities. No entity shall be considered a lender for  
55 purposes of any other provision of law solely as a result of its inter-  
56 est in an education loan made under this part.



1 2. Funds may be appropriated to the corporation and/or the state of  
2 New York mortgage agency, or other entity authorized to issue bonds  
3 under this program, for the administration of this program.

4 3. Interest paid on education loans made under this program shall be  
5 allowed as a deduction in computing the net taxable income of any such  
6 person for purposes of any income or franchise tax imposed by the state  
7 or any political subdivision thereof.

8 4. The sale of education loans under this program shall be subject to  
9 the availability of funding thereof.

10 5. To the extent that the provisions of this part are inconsistent  
11 with the provisions of any other part of this article, the provisions of  
12 this part shall be controlling.

13 § 694-b. Reporting. The corporation, after consultation with the state  
14 of New York mortgage agency, and any other public benefit corporation  
15 that shall have issued bonds under this program, shall report annually  
16 to the governor, the temporary president of the senate, the speaker of  
17 the assembly, and the director of the division of the budget on the  
18 number and characteristics of students served under this program. Such  
19 annual report shall be submitted by the first day of December following  
20 the close of the academic year for which such education loans were made.

21 § 2. Subdivision 2 of section 653 of the education law, as added by  
22 chapter 942 of the laws of 1974, is amended to read as follows:

23 2. a. To submit to the governor, the temporary president of the  
24 senate, the speaker of the assembly, the senate finance committee, the  
25 assembly ways and means committee and the standing committees of the  
26 legislature having jurisdiction of higher education, at such times as  
27 the director of the budget may prescribe a student aid and loan budget  
28 request for the following state fiscal year. The budget request shall  
29 include, but not be limited to estimates of the number and character-  
30 istics of students eligible for aid and loans, other than education  
31 loans made under the New York higher education loan program pursuant to  
32 part V of this article which budget request shall be developed by the  
33 president [after consultation with the board of regents] in order to  
34 implement the student financial aid and loan programs, other than educa-  
35 tion loans made under the New York higher education loan program pursu-  
36 ant to part V of this article provided for in this article. Notwith-  
37 standing, the budget request shall also include an estimate of the  
38 amounts needed for state operations within the New York higher education  
39 loan program account for purposes of the New York higher education loan  
40 program established pursuant to part V of this article. A copy of the  
41 budget request shall be transmitted to the commissioner for his informa-  
42 tion. The budget request submitted by the board shall be subject to  
43 approval annually as part of the executive budget.

44 b. At the time and in the format prescribed by the Director of the  
45 Budget, the Board shall submit to the Division of the Budget an adminis-  
46 trative and operating budget request. This budget request shall be  
47 subject to approval annually as part of the executive budget.

48 c. In order further to assure the payment by the corporation to lend-  
49 ing institutions for defaulted loans, other than education loans made  
50 under the New York higher education loan program pursuant to part V of  
51 this article in the respective amounts as guaranteed by the corporation  
52 pursuant to contract, there shall be annually apportioned and paid to  
53 the corporation such estimated amount, if any, as shall be certified by  
54 the board to the governor and director of the budget as necessary to  
55 provide for the payment of all defaults for the next ensuing state  
56 fiscal year. The board shall, as part of its annual budget request, make

1 and deliver to the governor and director of the budget, its certificate  
2 stating the estimated amount, if any, required to pay such defaults for  
3 the ensuing state fiscal year, if any, and said sums shall be appor-  
4 tioned and paid to the corporation during such fiscal year.

5 § 3. Section 656 of the education law, as added by chapter 942 of the  
6 laws of 1974, is amended to read as follows:

7 § 656. Contributions to corporation; tax deduction thereof. Notwith-  
8 standing the provisions of any general or special law all domestic  
9 corporations or associations organized for the purpose of carrying on  
10 business in this state, and any person, are hereby authorized to make  
11 contributions to the New York state higher education services corpo-  
12 ration or to the New York higher education loan program variable rate  
13 default reserve fund, the New York higher education loan program fixed  
14 rate default reserve fund, or the state of New York mortgage agency  
15 higher education loan program default reserve fund, as applicable and  
16 such contributions shall be allowed as deductions in computing the net  
17 taxable income of any such person, corporation or association for  
18 purposes of any income or franchise tax imposed by the state or any  
19 political subdivision thereof.

20 § 4. Subdivision 2 of section 657 of the education law, as added by  
21 chapter 942 of the laws of 1974, is amended to read as follows:

22 2. The state of New York covenants with the holders of the [obli-  
23 gations and] bonds, notes [issued by], or other obligations of the  
24 corporation pursuant to this article, or of the state of New York mort-  
25 gage agency authorized in section two thousand four hundred six of the  
26 public authorities law for the corporate purposes authorized in section  
27 two thousand four hundred five-a of the public authorities law, or of  
28 any other state entity authorized to issue bonds or notes under the New  
29 York education loan program codified in part V of this article, that the  
30 provisions of law applicable to the New York education loan program  
31 variable rate default reserve fund, the New York education loan program  
32 fixed rate default reserve fund, or the state of New York mortgage agen-  
33 cy New York education loan program default reserve fund, as applicable,  
34 and to the powers of the corporation to receive and deposit in each such  
35 fund the applicable amounts described therein shall not be amended in a  
36 manner adversely affecting the interests of such holders without  
37 adequate provision being made to protect such interests and that the  
38 corporation shall not be required to pay any taxes or assessments upon  
39 any of its property or upon its activities pursuant to the provisions of  
40 this article, or upon any moneys, funds, revenues or other income held  
41 or received by the corporation, and that the obligations and notes of  
42 the corporation and the income therefrom shall at all times be exempt  
43 from taxation, except for estate and gift taxes and taxes on transfers.

44 § 5. Subdivision 1 of section 661 of the education law, as amended by  
45 chapter 844 of the laws of 1975, is amended to read as follows:

46 1. Applicability. The eligibility requirements and conditions estab-  
47 lished in this section shall apply to all general awards, academic  
48 performance awards and student loans other than education loans made  
49 pursuant to part V of this article.

50 § 6. Paragraph c of subdivision 6 of section 661 of the education  
51 law, as added by chapter 637 of the laws of 1985, subparagraph 1 as  
52 amended by chapter 212 of the laws of 1988, is amended to read as  
53 follows:

54 c. A student who has defaulted on a guaranteed student loan or has  
55 failed to make a refund of an award may notwithstanding be considered

1 eligible for a further guaranteed student loan under the federal student  
2 aid programs or an award or both, [if] provided:

3 (1) (i) the student, except for the default, shall be eligible for the  
4 guaranteed student loan or the award; and (ii) the student has entered  
5 into a plan of repayment of the amount outstanding on the defaulted loan  
6 or refund satisfactory to the corporation, and has made satisfactory  
7 payments thereunder for a period of six months prior to the application  
8 to the corporation for the guaranteed student loan or the award; and  
9 (iii) in the case of a default in the payment of a guaranteed student  
10 loan, the student has demonstrated to the satisfaction of the president,  
11 that at the time the default occurred the student was entitled to a  
12 deferment or could have been granted forbearance of payment on the loan  
13 by the lender if a request for forbearance had been made;

14 (2) application for the further loan or award as authorized by this  
15 paragraph shall be on such forms and supported by such documentation as  
16 shall be prescribed by the president. The determination on the applica-  
17 tion by the president may be made without a hearing and shall be deemed  
18 final administrative action;

19 (3) anything to the contrary herein notwithstanding the corporation  
20 may offset any award to which the student shall be entitled against a  
21 refund due for a previous award, as provided under the provisions of  
22 subdivision four of section six hundred sixty-five of this article.

23 § 7. Section 682 of the education law is REPEALED.

24 § 8. Section 683 of the education law is REPEALED.

25 § 8-a. Section 684 of the education law is REPEALED.

26 § 9. Section 2405-a of the public authorities law is REPEALED and a  
27 new section 2405-a is added to read as follows:

28 § 2405-a. Education loans. (1) For purposes of this section, the  
29 following words and terms shall have the following meaning unless the  
30 context shall indicate another or different meaning or intent:

31 (a) "Corporation" shall mean the New York state higher education  
32 services corporation.

33 (b) "Education Loan" shall mean: (i) a New York higher education loan  
34 program loan made pursuant to part v of article fourteen of the educa-  
35 tion law; or (ii) a loan under Part B of Title IV of the Higher Educa-  
36 tion Act of nineteen hundred sixty-five, as amended, including but not  
37 limited to a loan described in subdivision ten of section twenty-four  
38 hundred two of this part; provided, that the borrower shall be required  
39 to apply the net proceeds of such loans to pay the student's costs of  
40 post-secondary education or to repay one or more such loans incurred for  
41 such purpose.

42 (2) In addition to the powers of the agency pursuant to the other  
43 sections of this title, the agency shall have power:

44 (a) To enter into one or more agreements with the corporation and to  
45 perform or contract for the performance of its obligations under any  
46 such agreement;

47 (b) To make and contract to make and to acquire and contract to  
48 acquire education loans and to enter into advance commitments for the  
49 purchase of said education loans;

50 (c) Subject to any agreement with bondholders or noteholders, to  
51 invest moneys of the agency not required for immediate use, including  
52 proceeds from the sale of any bonds or notes, in education loans;

53 (d) To make and execute contracts for the marketing, origination,  
54 servicing, collection, administration, guarantee and financing of educa-  
55 tion loans originated or acquired by the agency pursuant to this title,

1 and to pay the reasonable value of services rendered to the agency  
2 pursuant to those contracts;

3 (e) Subject to any agreement with bondholders or noteholders, to rene-  
4 gotiate or refinance any education loan that has been acquired by the  
5 agency or which the agency has committed to purchase that is in default;  
6 to waive any default or consent to the modification of the terms or any  
7 such education loan; to forgive all or part of any indebtedness; and to  
8 commence any action or proceeding to protect or enforce any right  
9 conferred upon it with respect to any such education loan by law, loan  
10 agreement, contract or other agreement;

11 (f) To prescribe standards and criteria for the origination of educa-  
12 tion loans to be eligible for acquisition by the agency and for educa-  
13 tion loans purchased by the agency;

14 (g) Subject to any agreement with bondholders or noteholders, to sell  
15 any education loans made or acquired by the agency at public or private  
16 sale and at such price or prices and on such terms as the agency shall  
17 determine; and

18 (h) To establish, revise from time to time, charge and collect such  
19 premiums or fees in connection with education loans and its partic-  
20 ipation in the New York higher education loan program as the agency  
21 shall determine.

22 (3) The agency shall have the power and is hereby authorized from time  
23 to time to issue its bonds and notes pursuant to sections two thousand  
24 four hundred six, two thousand four hundred seven and two thousand four  
25 hundred eight of this part for the corporate purposes authorized by this  
26 section, including without limitation for the purposes of financing and  
27 refinancing education loans and of refunding any bonds or notes issued  
28 for such purpose.

29 (4) Each lender or service provider who makes a representation or  
30 warranty to the agency with respect to an education loan shall be liable  
31 to the agency for any damages suffered by the agency by reason of the  
32 untruth of such representation or the breach of such warranty and, in  
33 the event that any representation shall prove to be untrue when made or  
34 in the event of any breach of warranty, such person shall, at the option  
35 of the agency, repurchase the education loan for the price provided in  
36 the applicable financing agreement, as the agency may determine.

37 (5) Any pledge by the agency of education loans or of earnings, reven-  
38 ues or other moneys receivable from any source, including without limi-  
39 tation default payments by the New York higher education loan program  
40 variable rate default reserve fund, the New York higher education loan  
41 program fixed rate default reserve fund, or the state of New York mort-  
42 gage agency New York higher education loan program default reserve fund,  
43 as applicable, with respect to education loans financed by the agency,  
44 shall be valid and binding from the time when the pledge is made. The  
45 education loans, earnings, revenues or other moneys so pledged and ther-  
46 eafter received by the agency or its agent, including without limitation  
47 the higher education services corporation or any education loan servi-  
48 cer, shall immediately be subject to the lien of such pledge without any  
49 physical delivery thereof or further act, and the lien of any such  
50 pledge shall be valid and binding as against all parties having claims  
51 of any kind in tort, contract or otherwise against the agency or its  
52 agent, including without limitation the higher education services corpo-  
53 ration or any education loan servicer, irrespective of whether such  
54 parties have notice thereof. Neither the resolution nor any other  
55 instrument by which a pledge is created need be recorded.

1 (6) The state of New York mortgage agency New York higher education  
2 loan program default reserve fund. (a) There is hereby created and  
3 established in the sole custody of the state of New York mortgage agency  
4 a special fund to be known as the state of New York mortgage agency New  
5 York higher education loan program default reserve fund which shall be  
6 for the exclusive benefit of the holders of education loans that the  
7 agency has acquired, or agreed to acquire, under the New York higher  
8 education loan program, codified in part V of article fourteen of the  
9 education law.

10 (b) Amounts held in this fund shall not be, or be deemed, funds of the  
11 state or funds under the management of the state, the agency, or the  
12 corporation. The obligations of such fund shall not be, or be deemed,  
13 the debts or obligations of the state and the state shall not be, or be  
14 deemed, in any way obligated to: any holder of any such education loan;  
15 any holder of bonds issued pursuant to section two thousand four hundred  
16 six of this part for the corporate purposes authorized in section two  
17 thousand five-a of this article; any fiduciary or provider of any credit  
18 facility, liquidity facility or interest rate exchange agreement with  
19 respect to such bonds; or any other creditor of this fund.

20 (c) Such fund shall consist of: (i) all moneys received by the higher  
21 education services corporation pursuant to paragraph (b) of subdivision  
22 seven of section six hundred ninety-two of the education law, in  
23 connection with education loans that the agency has acquired or agreed  
24 to acquire under the New York higher education loan program education  
25 loans; (ii) any transfers from the New York higher education loan  
26 program variable rate default reserve fund created by section seventy-  
27 eight-a of the state finance law or from the New York higher education  
28 loan program fixed rate default reserve fund created by section seven-  
29 ty-eight-b of the state finance law; and (iii) any appropriation payment  
30 or transfer to the agency for such purpose.

31 (d) The agency shall establish accounts within the fund and priorities  
32 of payment from such accounts and shall invest the fund in compliance  
33 with the state of New York mortgage agency act.

34 (e) This fund, including all sub-accounts thereof, shall be segregated  
35 from all other funds kept by the agency and shall not be used for any  
36 other purpose beyond those set forth in part V of article fourteen of  
37 the education law or in this section. The agency shall utilize monies in  
38 the fund solely to pay the outstanding principal, capitalized and unpaid  
39 accrued interest on defaulted education loans described in paragraph a  
40 of this subdivision.

41 (f) Nothing contained in this section shall prevent the agency, or the  
42 corporation, from receiving grants, gifts or bequests for the purposes  
43 of this fund and depositing them into the fund according to law, rules,  
44 or regulations.

45 (g) The agency shall make payments from the monies in this fund in  
46 amounts and at times required pursuant to part V of article fourteen of  
47 the education law.

48 § 10. Section 201 of the state finance law is amended by adding a new  
49 subdivision 16 to read as follows:

50 16. The comptroller is hereby authorized to deduct from the salary of  
51 any state employee such amount as such employee may specify in writing  
52 to be filed with the payroll officer of the employee's agency for the  
53 purpose of making payments on outstanding education loans made pursuant  
54 to part V of article fourteen of the education law and to transmit  
55 deductions so withheld to the appropriate collecting agent designated by  
56 the higher education services corporation for receipt thereof. Any such

1 written authorization may be withdrawn by such employee at any time upon  
 2 filing written notice of such withdrawal with the comptroller. The comp-  
 3 troller is hereby authorized to make such rules and regulations as may  
 4 be necessary to provide for deductions for this purpose.

5 § 11. The state finance law is amended by adding a new section 78-a to  
 6 read as follows:

7 § 78-a. New York higher education loan program variable rate default  
 8 reserve fund. 1. There is hereby created and established in the sole  
 9 custody of the state comptroller a special fund to be known as the New  
 10 York higher education loan program variable rate default reserve fund  
 11 which shall be for the exclusive benefit of the holders of education  
 12 loans originated pursuant to the New York higher education loan program  
 13 codified in part V of article fourteen of the education law, other than  
 14 variable rate education loans described in subdivision six of section  
 15 two thousand four hundred five-a of the public authorities law.

16 2. Amounts held in this fund shall not be, or be deemed, funds of the  
 17 state or funds under the management of the state or the higher education  
 18 services corporation. The obligations of the fund shall not be, or be  
 19 deemed, the debts or obligations of the state and the state shall not  
 20 be, or be deemed, in any way obligated to: any holder of any such educa-  
 21 tion loan; any holder of bonds issued pursuant to the public authorities  
 22 law for the purposes of the New York higher education loan program; any  
 23 fiduciary or provider of any credit facility, liquidity facility or  
 24 interest rate exchange agreement with respect to such bonds; or any  
 25 other creditor of this fund.

26 3. Such fund shall consist of all moneys received by the higher  
 27 education services corporation pursuant to paragraph (b) of subdivision  
 28 seven of section six hundred ninety-two of the education law, in  
 29 connection with variable rate education loans made under part V of arti-  
 30 cle fourteen of the education law, other than variable rate education  
 31 loans described in subdivision six of section two thousand four hundred  
 32 five-a of the public authorities law. The state comptroller, at the  
 33 request of the higher education services corporation, shall establish  
 34 accounts within the fund and priorities of payment from such accounts  
 35 and shall invest the fund in compliance with applicable state laws  
 36 concerning the investment of public funds. Moneys in the fund shall be  
 37 segregated from all other funds kept by the state comptroller and shall  
 38 not be used for any other purpose beyond those set forth in part V of  
 39 article fourteen of the education law or in this section.

40 4. The state comptroller shall make payments from the fund in amounts  
 41 and at times required by the higher education services corporation  
 42 pursuant to part V of article fourteen of the education law. Upon  
 43 certification by the State of New York mortgage agency that a variable  
 44 rate education loan described in subdivision three of this section has  
 45 been acquired by the agency or has become subject to the agreement of  
 46 the agency to acquire such education loan, the state comptroller shall  
 47 make transfers from the monies in the variable rate New York higher  
 48 education loan program default reserve fund to the corporation for  
 49 deposit into the state of New York mortgage agency New York higher  
 50 education loan program default reserve fund created by subdivision six  
 51 of section two thousand four hundred five-a of the public authorities  
 52 law in amounts certified by the agency and the corporation as properly  
 53 allocable to such education loan.

54 § 12. The state finance law is amended by adding a new section 78-b to  
 55 read as follows:

1 § 78-b. New York higher education loan program fixed rate default  
2 reserve fund. 1. There is hereby created and established in the sole  
3 custody of the state comptroller a special fund to be known as the New  
4 York higher education loan program fixed rate default reserve fund which  
5 shall be for the exclusive benefit of the holders of fixed rate educa-  
6 tion loans originated pursuant to the New York higher education loan  
7 program codified in part V of article fourteen of the education law,  
8 other than fixed rate education loans described in subdivision six of  
9 section two thousand four hundred five-a of the public authorities law.

10 2. Amounts held in this fund shall not be, or be deemed, funds of the  
11 state or funds under the management of the state or the higher education  
12 services corporation. The obligations of the fund shall not be, or be  
13 deemed, the debts or obligations of the state and the state shall not  
14 be, or be deemed, in any way obligated to: any holder of any such educa-  
15 tion loan; any holder of bonds issued pursuant to the public authorities  
16 law for the purposes of the New York higher education loan program; any  
17 fiduciary or provider of any credit facility, liquidity facility or  
18 interest rate exchange agreement with respect to such bonds; or any  
19 other creditor of this fund.

20 3. Such fund shall consist of all moneys received by the higher  
21 education services corporation pursuant to paragraph (b) of subdivision  
22 seven of section six hundred ninety-two of the education law, in  
23 connection with fixed rate education loans, other than fixed rate educa-  
24 tion loans described in subdivision six of section two thousand four  
25 hundred five-a of the public authorities law. The state comptroller, at  
26 the request of the higher education services corporation, shall estab-  
27 lish accounts within the fund and priorities of payment from such  
28 accounts and shall invest the fund in compliance with applicable state  
29 laws concerning the investment of public funds. Moneys in the fund shall  
30 be segregated from all other funds kept by the state comptroller and  
31 shall not be used for any other purpose beyond those set forth in part V  
32 of article fourteen of the education law or in this section.

33 4. The state comptroller shall make payments from the fund in amounts  
34 and at times required by the higher education services corporation  
35 pursuant to part V of article fourteen of the education law. Upon  
36 certification by the state of New York mortgage agency that a fixed rate  
37 education loan described in subdivision three of this section has been  
38 acquired by the agency or has become subject to the agreement of the  
39 agency to acquire such education loan, the state comptroller shall make  
40 transfers from the monies in the fixed rate New York higher education  
41 loan program default reserve fund to the corporation for deposit into  
42 the state of New York mortgage agency New York higher education loan  
43 program default reserve fund created by subdivision six of section two  
44 thousand four hundred five-a of the public authorities law in amounts  
45 certified by the agency and the corporation as properly allocable to  
46 such education loan.

47 § 13. The public authorities law is amended by adding a new section  
48 1679-c to read as follows:

49 § 1679-c. The New York higher education loan program. 1. For  
50 purposes of this section, the following words and terms shall have the  
51 following meaning unless the context shall indicate another or different  
52 meaning or intent:

53 (a) "Corporation" shall mean the New York state higher education  
54 services corporation.

1 (b) "Education loan" shall mean a loan made under the New York higher  
2 education loan program established pursuant to part v of article four-  
3 teen of the education law.

4 2. In addition to the powers of the authority pursuant to the other  
5 sections of this title, the authority shall have power:

6 (a) To enter into one or more agreements with the corporation, which  
7 agreement may provide for the securing of education loans in accordance  
8 with part V of article fourteen of the education law, and to perform or  
9 contract for the performance of its obligations under any such agree-  
10 ment;

11 (b) To make and contract to make and to acquire and contract to  
12 acquire education loans and to enter into advance commitments for the  
13 purchase of said education loans;

14 (c) Subject to any agreement with bondholders or noteholders, to  
15 invest moneys of the authority not required for immediate use, including  
16 proceeds from the sale of any bonds or notes, in education loans;

17 (d) To service and execute contracts for the servicing of education  
18 loans acquired by the authority pursuant to this title, and to pay the  
19 reasonable value of services rendered to the authority pursuant to those  
20 contracts;

21 (e) To prescribe standards and criteria for education loans purchases,  
22 insofar as such standards and criteria are not inconsistent with the  
23 applicable agreement with the corporation;

24 (f) Subject to any agreement with bondholders or noteholders, to sell  
25 any education loans made or acquired by the authority at public or  
26 private sale and at such price or prices and on such terms as the  
27 authority shall determine; and

28 (g) To establish, revise from time to time, charge and collect such  
29 premiums or fees in connection with education loans and its partic-  
30 ipation in the New York higher education loan program as the authority  
31 shall determine.

32 3. The authority shall have the power and is hereby authorized from  
33 time to time to issue bonds and notes, including without limitation for  
34 the purposes of financing and refinancing education loans and of refund-  
35 ing any bonds or notes issued for such purpose pursuant to part V of  
36 article fourteen of the education law.

37 § 14. Subdivision 4-a of section 1682 of the public authorities law,  
38 as amended by chapter 817 of the laws of 1976, is amended to read as  
39 follows:

40 4-a. Any pledge of or other security interest in moneys, earnings,  
41 income, revenues, accounts, contract rights, general intangibles or  
42 other personal property made or created by the authority shall be valid,  
43 binding and perfected from the time when such pledge or other security  
44 interest attaches, without any physical delivery of the collateral or  
45 further act. The lien of any such pledge or other security interest  
46 shall be valid, binding and perfected as against all parties having  
47 claims of any kind in tort, contract or otherwise against the authority  
48 irrespective of whether or not such parties have notice thereof. No  
49 instrument by which such a pledge or other security interest is created  
50 nor any financing statement need be recorded or filed. This subdivision  
51 shall apply notwithstanding the provisions of the uniform commercial  
52 code. Any moneys, earnings, income, revenues, accounts, contract  
53 rights, general intangibles or other personal property held or received  
54 by the authority or on behalf of the authority by any lender, servicer,  
55 trustee, custodian, collection agent or institution of higher education,  
56 pursuant to any resolution, trust agreement or other agreement author-



1 ized by, or entered into in connection with, the program established  
2 pursuant to section sixteen hundred seventy nine-c of this title and  
3 pledged by the authority pursuant to a resolution, trust agreement or  
4 such other agreement for the benefit of bondholders shall constitute  
5 moneys, earnings, income, revenues, accounts, contract rights, general  
6 intangibles or other personal property pledged by the authority for all  
7 purposes of this subdivision.

8 § 15. This act shall take effect July 1, 2009.

9

PART K

10 Section 1. Subparagraph 4 of paragraph h of subdivision 2 of section  
11 355 of the education law, as amended by chapter 309 of the laws of 1996,  
12 is amended to read as follows:

13 (4) The trustees shall not impose a differential tuition charge based  
14 upon need or income. All students who have residency in New York state,  
15 or otherwise qualify for the residential rate of tuition as set forth in  
16 this section, and who are enrolled in programs leading to like degrees  
17 at state-operated institutions of the state university shall be charged  
18 a uniform rate of tuition [except for differential tuition rates based  
19 on state residency]. Provided, however, that the trustees may authorize  
20 the presidents of the colleges of technology and the colleges of agri-  
21 culture and technology to set differing rates of tuition for each of the  
22 colleges for students enrolled in degree-granting programs leading to an  
23 associate degree and non-degree granting programs so long as such  
24 tuition rate does not exceed the tuition rate charged to students who  
25 are enrolled in like degree programs or degree-granting undergraduate  
26 programs leading to a baccalaureate degree at other state-operated  
27 institutions of the state university of New York. The trustees shall not  
28 adopt changes affecting tuition charges prior to the enactment of the  
29 annual budget. The trustees shall establish maximum percentage enroll-  
30 ment limitations for students who are not New York state residents, or  
31 who do not otherwise qualify for the residential rate of tuition as set  
32 forth in this section, for each individual state-operated institution  
33 authorized by the trustees to charge differential tuition by degree or  
34 program for students who are not New York state residents, or who do not  
35 otherwise qualify for the residential rate of tuition as set forth in  
36 this section.

37 § 2. The opening paragraph of paragraph (a) of subdivision 7 of  
38 section 6206 of the education law, as amended by section 2 of part 0 of  
39 chapter 58 of the laws of 2006, is amended to read as follows:

40 The board of trustees shall establish positions, departments, divi-  
41 sions and faculties; appoint and in accordance with the provisions of  
42 law fix salaries of instructional and non-instructional employees there-  
43 in; establish and conduct courses and curricula; prescribe conditions of  
44 student admission, attendance and discharge; and shall have the power to  
45 determine in its discretion whether tuition shall be charged and to  
46 regulate tuition charges, and other instructional and non-instructional  
47 fees and other fees and charges at the educational units of the city  
48 university. The trustees shall review any proposed community college  
49 tuition increase and the justification for such increase. The justifica-  
50 tion provided by the community college for such increase shall include a  
51 detailed analysis of ongoing operating costs, capital, debt service  
52 expenditures, and all revenues. The trustees shall not impose a differ-  
53 ential tuition charge based upon need or income. All students who have  
54 residency in New York state, or otherwise qualify for the residential



1 rate of tuition as set forth in this section, and who are enrolled in  
2 programs leading to like degrees at the senior colleges shall be charged  
3 a uniform rate of tuition[, except for differential tuition rates based  
4 on state residency]. The trustees shall establish maximum percentage  
5 enrollment limitations for students who are not New York state resi-  
6 dents, or who do not otherwise qualify for the residential rate of  
7 tuition as set forth in this section, for each individual senior college  
8 authorized by the trustees to charge differential tuition by degree or  
9 program for students who are not New York state residents, or who do not  
10 otherwise qualify for the residential rate of tuition as set forth in  
11 this section. The trustees shall further provide that the payment of  
12 tuition and fees by any student who is not a resident of New York state,  
13 other than a non-immigrant alien within the meaning of paragraph (15) of  
14 subsection (a) of section 1101 of title 8 of the United States Code,  
15 shall be paid at a rate or charge no greater than that imposed for  
16 students who are residents of the state if such student:

17 § 3. This act shall take effect immediately.

18

#### PART L

19 Section 1. Subdivision 7 of section 390 of the education law, as added  
20 by chapter 337 of the laws of 1964, is amended to read as follows:

21 7. The term "insurer" shall mean a life insurance corporation, or  
22 other corporation subject to insurance department supervision or a regu-  
23 lated investment company registered with the securities and exchange  
24 commission under the investment company act of 1940, as amended, or a  
25 distributor of such regulated investment companies.

26 § 2. Subdivision 1 of section 391 of the education law, as amended by  
27 chapter 696 of the laws of 1965, is amended to read as follows:

28 1. There is hereby established an optional retirement program which  
29 shall provide for the [purchase of contracts providing] retirement and  
30 death benefits through the purchase of contracts, mutual funds, or other  
31 investments permissible under section 401(a) of the internal revenue  
32 code for or on behalf of electing employees. Under such program the  
33 state or an electing employer and such employees shall contribute, to  
34 the extent authorized or required, towards the purchase of such  
35 contracts or other permissible investments, which shall be issued to,  
36 and become the property of, such employees or be held in a trust for the  
37 benefit of such employees, as required by section 401(a) of the internal  
38 revenue code. The board of trustees of a community college may elect to  
39 offer the optional retirement program to eligible employees of such  
40 college by resolution, which shall become effective upon approval of the  
41 local sponsor acting through its local legislative body or board or  
42 other appropriate governing agency.

43 § 3. Subdivision 2 of section 391 of the education law, as amended by  
44 chapter 696 of the laws of 1965, is amended to read as follows:

45 2. The board shall designate the insurer or insurers to which payment  
46 of such contributions may be made and shall approve the form and content  
47 of such contracts. In making such designation and giving such approval  
48 the board shall give due consideration to (i) the nature and extent of  
49 the rights and benefits to be provided by such contracts for electing  
50 employees and their beneficiaries, (ii) the relation of such rights and  
51 benefits to the amount of contributions to be made under this article,  
52 (iii) the suitability of such rights and benefits to the needs and  
53 interests of electing employees and to the interests of state university  
54 and of electing employers in the employment and retention of eligible

1 employees, and (iv) the authority and ability of the designated insurer  
 2 or insurers to provide rights and benefits under such contracts. In  
 3 accordance with section 401(a) of the internal revenue code, the board  
 4 shall establish a trust to hold mutual funds and other program assets  
 5 and investments other than contracts for the benefit of plan partic-  
 6 ipants, and shall determine which investments to make available to  
 7 program participants (including but not limited to shares of registered  
 8 investment funds ("mutual funds")) through individual accounts under the  
 9 trust.

10 § 4. Subdivision 3 of section 392 of the education law, as amended by  
 11 chapter 696 of the laws of 1965, is amended to read as follows:

12 3. Payment of contributions pursuant to subdivisions one and two of  
 13 this section shall be made to the designated insurer or insurers or to  
 14 the trust upon audit and warrant of the comptroller for employees of the  
 15 state university and by the appropriate fiscal officer for employees of  
 16 an electing employer.

17 § 5. Subdivision 4 of section 392 of the education law, as amended by  
 18 chapter 696 of the laws of 1965, is amended to read as follows:

19 4. In the case of an electing employee initially appointed on or after  
 20 July first, nineteen hundred sixty-four, no contributions pursuant to  
 21 subdivisions one and two of this section shall be made by the state or  
 22 by the electing employer until his completion of one year of service and  
 23 continuance in service thereafter. Employee contributions, if any,  
 24 required during this initial year of service shall be deducted and held  
 25 by the comptroller or by the appropriate fiscal officer of an electing  
 26 employer. At the end of his initial year of service, a single contrib-  
 27 ution in an amount determined pursuant to subdivisions one and two of  
 28 this section, with interest at the rate of four percentum per annum,  
 29 shall be made by the state, upon audit and warrant of the comptroller,  
 30 and by the appropriate fiscal officer for an electing employer, to the  
 31 designated insurer or insurers or to the trust, on behalf of such  
 32 employee continued in service. In the case of an electing employee who  
 33 does not continue in service with state university or with a community  
 34 college beyond his initial year of service, the amount of employee  
 35 contribution, if any, deducted from his salary shall be refunded to him,  
 36 with interest at the rate of four percentum per annum.

37 § 6. Section 394 of the education law, as amended by chapter 106 of  
 38 the laws of 1965, is amended to read as follows:

39 § 394. Survivor's benefits. In the case of the death of any electing  
 40 employee, after the effective date of this election and before retire-  
 41 ment, the value of [the] any death benefits provided by the contract or  
 42 contracts purchased under the optional retirement program which is  
 43 attributable to the state's contribution as determined by the board and  
 44 any vested balance in the employee's account in the trust, shall be  
 45 deemed to be an ordinary death benefit provided under a public pension  
 46 plan within the meaning of former section one hundred fifty-four of the  
 47 civil service law. Notwithstanding the provisions of such section of  
 48 the civil service law, a survivors benefit payable thereunder on account  
 49 of the death of any electing employee while in the employ of state  
 50 university, after the effective date of such election and before retire-  
 51 ment, including an employee subject to the provisions of subdivision  
 52 three of section three hundred ninety-three of this article, shall be  
 53 paid to such person or persons as such employee shall have nominated to  
 54 receive the death benefits provided by the contract or contracts  
 55 purchased under the optional retirement program or designated as the  
 56 employee's beneficiary or beneficiaries with respect to the employee's

1 account in the trust. In the event such designated beneficiary or bene-  
 2 ficiaries do not survive the employee, or if a beneficiary was not so  
 3 designated, the survivors benefit shall be paid to the deceased employ-  
 4 ee's estate or as provided in former section one hundred three-a of the  
 5 decedent estate law.

6 § 7. Section 396 of the education law, as amended by chapter 696 of  
 7 the laws of 1965, is amended to read as follows:

8 § 396. Employer not liable for payment of benefits. Neither the  
 9 state, nor state university, nor any electing employer or its local  
 10 sponsor shall be a party to any contract purchased in whole or in part  
 11 with contributions made under the optional retirement program estab-  
 12 lished and administered pursuant to this article. All benefits to be  
 13 paid from the trust shall be based solely on the vested account balance  
 14 of such employee. No retirement, death, or other benefits shall be paya-  
 15 ble by the state, or by state university, or by any electing employer or  
 16 its local sponsor under such optional retirement program. Such benefits  
 17 shall be paid to electing employees or their beneficiaries by the desig-  
 18 nated insurer or insurers or from the trust in accordance with the terms  
 19 of their contracts or the program.

20 § 8. This act shall take effect immediately.

21

PART M

22 Section 1. Section 1306-b of the real property tax law is REPEALED.

23 § 2. Section 171-q of the tax law is REPEALED.

24 § 3. Section 178 of the tax law is REPEALED.

25 § 4. Subparagraphs (A) and (B) of paragraph 2 of subsection (e) of  
 26 section 1310 of the tax law, as amended by section 1 of part R of chap-  
 27 ter 57 of the laws of 2008, are amended to read as follows:

28 (A) Married individuals filing joint returns and surviving spouses. In  
 29 the case of a husband and wife who make a single return jointly and of a  
 30 surviving spouse:

| For taxable years beginning: | The credit shall be: |
|------------------------------|----------------------|
| 31 in 2001-2005              | \$125                |
| 32 in 2006                   | \$230                |
| 33 in 2007-2008              | \$290                |
| 34 in 2009 <u>and after</u>  | [\$310] <u>\$125</u> |
| 35 [after 2009]              | [\$335]              |

37 (B) All others. In the case of an unmarried individual, a head of a  
 38 household or a married individual filing a separate return:

| For taxable years beginning: | The credit shall be:   |
|------------------------------|------------------------|
| 39 in 2001-2005              | \$62.50                |
| 40 in 2006                   | \$115                  |
| 41 in 2007-2008              | \$145                  |
| 42 in 2009 <u>and after</u>  | [\$155] <u>\$62.50</u> |
| 43 [after 2009]              | [\$167.50]             |

45 § 5. Subparagraphs (A) and (B) of paragraph 2 of subdivision (c) of  
 46 section 11-1706 of the administrative code of the city of New York, as  
 47 amended by section 2 of part R of chapter 57 of the laws of 2008, are  
 48 amended to read as follows:

49 (A) Married individuals filing joint returns and surviving spouses. In  
 50 the case of a husband and wife who make a single return jointly and of a  
 51 surviving spouse:

| For taxable years beginning: | The credit shall be: |
|------------------------------|----------------------|
| 52 in 2001-2005              | \$125                |
| 53 in 2006                   | \$230                |

54

|   |                          |                      |
|---|--------------------------|----------------------|
| 1 | in 2007-2008             | \$290                |
| 2 | in 2009 <u>and after</u> | [\$310] <u>\$125</u> |
| 3 | [after 2009]             | [\$335]              |

4 (B) All others. In the case of an unmarried individual, a head of a  
5 household or a married individual filing a separate return:

|    |                              |                        |
|----|------------------------------|------------------------|
| 6  | For taxable years beginning: | The credit shall be:   |
| 7  | in 2001-2005                 | \$62.50                |
| 8  | in 2006                      | \$115                  |
| 9  | in 2007-2008                 | \$145                  |
| 10 | in 2009 <u>and after</u>     | [\$155] <u>\$62.50</u> |
| 11 | [after 2009]                 | [\$167.50]             |

12 § 6. This act shall take effect immediately, provided that sections  
13 one, two and three of this act shall apply to the administration and  
14 issuance of Middle Class STAR rebates for the 2009-2010 and subsequent  
15 school years, and sections four and five of this act shall apply to  
16 taxable years beginning on and after January 1, 2009.

17 PART N

18 Section 1. Subparagraph (ii) of paragraph (e) of subdivision 2 of  
19 section 425 of the real property tax law, as amended by section 1 of  
20 part W of chapter 57 of the laws of 2008, is amended to read as follows:

21 (ii) For the two thousand nine--two thousand ten and subsequent school  
22 years, the result obtained in paragraph (d) of this subdivision may not  
23 be less than [eighty-nine] eighty-two percent of the exempt amount  
24 determined for the prior levy, unless the level of assessment in the  
25 assessing unit, or in class one in a special assessing unit, has changed  
26 by five percent or more, in which case the result obtained in paragraph  
27 (d) of this subdivision for the assessing unit, or for class one in a  
28 special assessing unit, may not be less than [eighty-nine] eighty-two  
29 percent of the product of the exempt amount determined for the prior  
30 levy multiplied by the applicable change in level of assessment factor.

31 § 2. This act shall take effect immediately and shall apply to the  
32 administration of the STAR exemption for the 2009-2010 and subsequent  
33 school years.

34 PART O

35 Section 1. Subdivision e of section 8 of section 4 of chapter 576 of  
36 the laws of 1974 constituting the emergency tenant protection act is  
37 REPEALED.

38 § 2. This act shall take effect immediately.

39 PART P

40 Section 1. Subdivisions 2 and 7 of section 412 of the executive law  
41 are REPEALED, and subdivisions 3, 4, 5, and 6 are renumbered subdivi-  
42 sions 2, 3, 4, and 5.

43 § 2. Subdivisions 3, 4 and 5 of section 412 of the executive law, as  
44 amended by chapter 182 of the laws of 2002 and as renumbered by section  
45 one of this act, are amended and three new subdivisions 6, 7 and 8 are  
46 added to read as follows:

47 3. "Municipality" as used in this article, shall mean a county[, city,  
48 village, town, that part of a town not included within the boundaries of  
49 a village, or a school district (if approved for such purpose by the  
50 commissioner, in instances where no other municipality, overlapping such

1 school district in whole or part, is receiving state aid pursuant to  
2 this article or upon such other basis as the commissioner shall by regu-  
3 lation determine). Municipality may mean an Indian reservation, subject  
4 to rules and regulations of the office] or the city of New York.

5 4. "Youth program" shall mean a "youth bureau," ["recreation project"  
6 or] "youth [service" project established under prior authorizing legis-  
7 lation establishing a temporary state youth commission as well as simi-  
8 lar local programs] development and delinquency prevention program,"  
9 "special delinquency prevention program," "runaway and homeless youth  
10 services program," as provided under article nineteen-H of this chapter,  
11 "alternatives to detention and residential diversion program," and  
12 "detention services" designed to accomplish the broad purposes of this  
13 article. The definition, determination and classification of youth  
14 programs shall be subject to approval by the office [in accordance with  
15 rules and regulations adopted by it].

16 5. "State aid" shall mean payments by the state to a municipality for  
17 or toward the cost of establishment, operation and/or maintenance of  
18 approved youth programs as part of the youth programs block grant in  
19 accordance with the provisions of this article.

20 6. "Youth development and delinquency prevention program" shall mean a  
21 community-based program for the municipality's youth population that is  
22 designed to promote youth development.

23 7. "Special delinquency prevention program" shall mean a community-  
24 based program for at-risk youth that is designed to prevent juvenile  
25 delinquency and promote youth development.

26 8. "Alternatives to detention and residential diversion program" shall  
27 mean a program designed to divert youth at-risk of entering or returning  
28 to detention and/or a residential placement as a person in need of  
29 supervision or a juvenile delinquent.

30 § 3. Section 420 of the executive law is REPEALED and a new section  
31 420 is added to read as follows:

32 § 420. State aid: youth programs block grant. 1. Notwithstanding the  
33 provisions of any other law to the contrary, eligible expenditures by a  
34 municipality during a particular calendar year for youth programs shall  
35 be subject to state reimbursement up to the municipality's allocation  
36 under the youth programs block grant, for the following activities:

37 a. youth bureaus, youth development and delinquency prevention  
38 programs, special delinquency prevention programs, runaway and homeless  
39 youth services programs, and alternatives to detention and residential  
40 diversion programs;

41 b. care, maintenance and supervision provided to youth in juvenile  
42 detention facilities certified by the office of children and family  
43 services;

44 c. care, maintenance and supervision provided to youth detained by the  
45 city of New York pursuant to article seven of the family court act in  
46 foster care facilities approved by the office; and

47 d. reserved accommodations in certified juvenile detention facilities  
48 to assure that adequate accommodations will be available for the immedi-  
49 ate reception and proper care therein of youth, provided the office  
50 shall have given its prior approval for reserving such accommodations.

51 2. For the purposes of this section "care, maintenance and super-  
52 vision" shall mean and include only:

53 a. temporary care, maintenance and supervision provided alleged juve-  
54 nile delinquent and persons in need of supervision in detention facili-  
55 ties certified by the office of children and family services, pending  
56 adjudication of alleged delinquency or alleged need of supervision by

1 the family court, or pending transfer to institutions to which committed  
2 or placed by such court or while awaiting disposition by such court  
3 after adjudication or held pursuant to a securing order of a criminal  
4 court if the person named therein as principal is under sixteen; or

5 b. temporary care, maintenance and supervision provided juvenile  
6 delinquents and persons in need of supervision in approved detention  
7 facilities at the request of the office pending release revocation hear-  
8 ings or while awaiting disposition after such hearings; or

9 c. temporary care, maintenance and supervision in approved detention  
10 facilities for youth held pursuant to the family court act or the inter-  
11 state compact on juveniles, pending return to their place of residence  
12 or domicile; or

13 d. temporary care, maintenance and supervision provided youth detained  
14 in the city of New York in foster care facilities pursuant to article  
15 seven of the family court act.

16 3. The state funds appropriated for the youth programs block grant  
17 shall be apportioned among the municipalities by the office of children  
18 and family services based on the municipality's youth population, claim-  
19 ing history, and other factors determined by the office. Such allo-  
20 cations shall be subject to the approval of the director of the budget.

21 4. The chief executive officer of the municipality shall designate a  
22 lead agency for the purposes of administering the youth programs block  
23 grant.

24 5. The municipality shall document its comprehensive plan for the  
25 provision of youth programs under the youth programs block grant as part  
26 of the county child and family services plan submitted in accordance  
27 with section thirty-four-a of the social services law.

28 6. A municipality shall submit claims for reimbursement for youth  
29 programs in such form and manner, including electronically, and at such  
30 times and for such periods as the office of children and family services  
31 shall determine. When certified by the office, state reimbursement shall  
32 be paid from the state treasury upon the audit and warrant of the comp-  
33 troller out of funds made available therefor. The office is authorized  
34 in its discretion to make advances to municipalities in anticipation of  
35 the state reimbursement provided for in this section.

36 7. The office of children and family services shall not reimburse any  
37 claims for expenditures for youth programs that are submitted more than  
38 nine months after the calendar quarter in which the services were deliv-  
39 ered. Any portion of a municipality's allocation from the youth programs  
40 block grant for a particular calendar year that is not claimed by such  
41 municipality in accordance with this section may be reallocated by the  
42 office to other eligible municipalities which have claims in excess of  
43 their block grant allocations for services provided during that same  
44 calendar year.

45 § 4. The section heading and subdivisions 1, 4, 6 and 10 of section  
46 422 of the executive law, the section heading and subdivision 6 as added  
47 by chapter 636 of the laws of 1956, subdivisions 1 and 4 as amended by  
48 chapter 182 of the laws of 2002, and subdivision 10 as added by chapter  
49 400 of the laws of 1978, are amended to read as follows:

50 Youth bureaus[; recreation and youth service projects;] and other  
51 youth programs. 1. Any [county or city, or any town or village with a  
52 total population of twenty thousand or more persons] municipality desir-  
53 ing to establish a youth bureau[, or any municipality desiring to estab-  
54 lish a recreation, youth service or other project] may apply to the  
55 office for approval of its plans. The application shall be in writing,  
56 specifying the nature of the program, and shall contain such information

1 as the office shall require. Any city, town or village desiring to  
2 establish a youth bureau may apply to its municipality in writing for  
3 approval, and shall provide such information as the municipality may  
4 require.

5 4. The approval of any proposed youth program by the office shall  
6 authorize the [county, city or] municipality to establish, operate and  
7 maintain the program and [entitle it to] make such program eligible for  
8 state aid under the youth programs block grant as [herein] set forth in  
9 section four hundred twenty of this article; provided, however, the  
10 office may at any time subsequently withdraw its approval or require  
11 changes in a plan or program previously approved.

12 6. A municipality and the board of education, board of trustees or the  
13 trustee of a school district may make and perform agreements providing  
14 for the operation by a school district of a youth [service, recreation  
15 or other project of] program for such municipality.

16 [10. Notwithstanding any provision of law, rule or regulation to the  
17 contrary, no city, town or village with a youth population of twenty-  
18 five thousand or less residing in such city, town or village shall be  
19 required under this article, or for purposes of receiving state aid  
20 hereunder, to employ a full time executive director for their respective  
21 proposed or approved youth programs, as the case may be.]

22 § 5. Section 530 of the executive law is REPEALED.

23 § 6. Subdivisions 4 and 6 of section 532-a of the executive law, as  
24 amended by section 14 of part E of chapter 57 of the laws of 2005, are  
25 amended and a new subdivision 7 is added to read as follows:

26 4. "Approved runaway program" shall mean any non-residential program  
27 approved by the office of children and family services after submission  
28 by the [county youth bureau] municipality, as part of its comprehensive  
29 plan, in accordance with section thirty-four-a of the social services  
30 law or any residential facility which is operated by an authorized agen-  
31 cy as defined in subdivision ten of section three hundred seventy-one of  
32 the social services law, and approved by the office of children and  
33 family services after submission by the [county youth bureau] muni-  
34 pality as part of its comprehensive plan in accordance with section  
35 thirty-four-a of the social services law, established and operated to  
36 provide services to runaway and homeless youth in accordance with the  
37 regulations of the office of temporary and disability assistance and the  
38 office of children and family services. Such programs may also provide  
39 non-residential crisis intervention and residential respite services to  
40 youth in need of crisis intervention or respite services, as defined in  
41 this section. Residential respite services in an approved runaway  
42 program may be provided for no more than twenty-one days in accordance  
43 with the regulations of the office of children and family services.

44 6. "Transitional independent living support program" shall mean any  
45 non-residential program approved by the office of children and family  
46 services after submission by the [county youth bureau] municipality as  
47 part of its comprehensive plan in accordance with section thirty-four-a  
48 of the social services law, or any residential facility approved by the  
49 office of children and family services after submission by the [county  
50 youth bureau] municipality as part of its comprehensive plan in accord-  
51 ance with section thirty-four-a of the social services law, established  
52 and operated to provide supportive services, for a period of up to eigh-  
53 teen months in accordance with the regulations of the office of children  
54 and family services, to enable homeless youth between the ages of  
55 sixteen and twenty-one to progress from crisis care and transitional  
56 care to independent living. Such transitional independent living support





1 program may also provide services to youth in need of crisis inter-  
 2 vention or respite services. Notwithstanding the time limitation in  
 3 paragraph (i) of subdivision (d) of section seven hundred thirty-five of  
 4 the family court act, residential respite services may be provided in a  
 5 transitional independent living support program for a period of more  
 6 than twenty-one days.

7 7. "Municipality" as used in this article shall mean a county or the  
 8 city of New York.

9 § 7. Subdivision 2 of section 532-b of the executive law, as added by  
 10 chapter 722 of the laws of 1978, is amended to read as follows:

11 2. The runaway youth may remain in the program on a voluntary basis  
 12 for a period not to exceed thirty days from the date of admission where  
 13 the filing of a petition pursuant to article ten of the family court act  
 14 is not contemplated, in order that arrangements can be made for the  
 15 runaway youth's return home, alternative residential placement pursuant  
 16 to section three hundred ninety-eight of the social services law, or any  
 17 other suitable plan. If the runaway youth and the parent, guardian or  
 18 custodian agree, in writing, the runaway youth may remain in the runaway  
 19 program up to sixty days without the filing of a petition pursuant to  
 20 article ten of the family court act, provided that in any such case the  
 21 facility shall first have obtained the approval of the county runaway  
 22 coordinator, who shall notify the [county youth bureau] municipality of  
 23 his approval together with a statement as to the reason why such addi-  
 24 tional residential stay is necessary and a description of the efforts  
 25 being made to find suitable alternative living arrangements for such  
 26 youth.

27 § 8. This act shall take effect immediately and shall be deemed to  
 28 have been in full force and effect on and after January 1, 2009.

29 PART Q

30 Section 1. Section 28 of part C of chapter 83 of the laws of 2002  
 31 amending the executive law and other laws relating to funding for chil-  
 32 dren and family services, as amended by section 1 of part I of chapter  
 33 57 of the laws of 2007, is amended to read as follows:

34 § 28. This act shall take effect immediately; provided that sections  
 35 nine through eighteen and twenty through twenty-seven of this act shall  
 36 be deemed to have been in full force and effect on and after April 1,  
 37 2002; provided, however, that section fifteen of this act shall apply to  
 38 claims that are otherwise reimbursable by the state on or after April 1,  
 39 2002 except as provided in subdivision 9 of section 153-k of the social  
 40 services law as added by section fifteen of this act; provided further  
 41 however, that nothing in this act shall authorize the office of children  
 42 and family services to deny state reimbursement to a social services  
 43 district for violations of the provisions of section 153-d of the social  
 44 services law for services provided from January 1, 1994 through March  
 45 31, 2002; provided that section nineteen of this act shall take effect  
 46 September 13, 2002; and, provided further, however, that notwithstanding  
 47 any law to the contrary, the office of children and family services  
 48 shall have the authority to promulgate, on an emergency basis, any rules  
 49 and regulations necessary to implement the requirements established  
 50 pursuant to this act; provided further, however, that the regulations to  
 51 be developed pursuant to section one of this act shall not be adopted by  
 52 emergency rule; and provided further that the provisions of sections  
 53 nine through twenty-seven of this act shall expire and be deemed  
 54 repealed on June 30, [2009] 2012.

1 § 2. Paragraph (c) of subdivision 3 of section 409-a of the social  
2 services law, as added by chapter 465 of the laws of 1987, is amended to  
3 read as follows:

4 (c) [Community] Notwithstanding any other provision of law, state  
5 reimbursement for community preventive services [may be] provided pursu-  
6 ant to this subdivision [through demonstration projects] shall be avail-  
7 able only to the extent [the department makes] funds [available for such  
8 projects] are specifically appropriated therefor.

9 § 3. This act shall take effect immediately and shall be deemed to  
10 have been in full force and effect on and after March 1, 2009; provided  
11 however, that the amendments to paragraph (c) of subdivision 3 of  
12 section 409-a of the social services law made by section two of this act  
13 shall apply to any expenditures by social services districts that ordi-  
14 narily would be reimbursed by the state on or after April 1, 2009.

15

## PART R

16 Section 1. Subdivision 19 of section 246 of chapter 81 of the laws of  
17 1995, amending the vehicle and traffic law and other laws relating to  
18 the enforcement of support through the suspension of driving privileges,  
19 as amended by section 1 of part J of chapter 59 of the laws of 2007, is  
20 REPEALED.

21 § 2. This act shall take effect immediately and shall be deemed to  
22 have been in full force and effect on and after April 1, 2009.

23

## PART S

24 Section 1. Subdivision 17 of section 153 of the social services law is  
25 REPEALED.

26 § 2. Subdivision 7 of section 335-b of the social services law is  
27 REPEALED.

28 § 3. This act shall take effect immediately and shall be deemed to  
29 have been in full force and effect on and after March 1, 2009.

30

## PART T

31 Section 1. Subdivision 10 of section 159 of the social services law,  
32 as amended by chapter 713 of the laws of 2005, is amended to read as  
33 follows:

34 10. Social services [district] districts providing safety net assist-  
35 ance to persons receiving care as defined in paragraphs (c), (d) and (e)  
36 of subdivision three of section two hundred nine of [the social services  
37 law] this article shall pay such facility at the rate provided for care  
38 and maintenance under the supplemental security income program for bene-  
39 ficiaries of that program in the same facility, less the amount of any  
40 personal needs allowance included in the supplemental security program.  
41 In addition, social services districts shall provide such persons  
42 receiving safety net assistance with a personal needs allowance in the  
43 amount included in the supplemental security payment level as a personal  
44 needs allowance for recipients of that program residing in the partic-  
45 ular facility; except that they shall provide such persons residing in a  
46 residential substance abuse treatment program or community residential  
47 facility for alcoholism, as those terms are used in paragraph (d) of  
48 subdivision three of section two hundred nine of this article, with a  
49 personal needs allowance of forty-five dollars per month.



1 § 2. This act shall take effect immediately and shall be deemed to  
2 have been in full force and effect on and after March 1, 2009.

3

## PART U

4 Section 1. Paragraphs (a), (b) and (d) of subdivision 1 of section  
5 131-o of the social services law, as amended by section 1 of part X of  
6 chapter 57 of the laws of 2008, are amended and a new paragraph (c) is  
7 added to read as follows:

8 (a) in the case of each individual receiving family care, an amount  
9 equal to at least [~~\$123.00~~] \$130.00 for each month beginning on or after  
10 January first, two thousand ~~[eight]~~ nine.

11 (b) in the case of each individual receiving residential care, an  
12 amount equal to at least [~~\$142.00~~] \$150.00 for each month beginning on  
13 or after January first, two thousand ~~[eight]~~ nine.

14 (c) in the case of each individual receiving enhanced residential  
15 care, an amount equal to at least \$178.00 for each month beginning on or  
16 after January first, two thousand nine.

17 (d) for the period commencing January first, two thousand ~~[nine]~~ ten,  
18 the monthly personal needs allowance shall be an amount equal to the sum  
19 of the amounts set forth in subparagraphs one and two of this paragraph:

20 (1) the amounts specified in paragraphs (a) ~~[and],~~ (b) and (c) of this  
21 subdivision; and

22 (2) the amount in subparagraph one of this paragraph, multiplied by  
23 the percentage of any federal supplemental security income cost of  
24 living adjustment which becomes effective on or after January first, two  
25 thousand ~~[nine]~~ ten, but prior to June thirtieth, two thousand ~~[nine]~~  
26 ten, rounded to the nearest whole dollar.

27 § 2. Paragraph (e) of subdivision 1 of section 131-o of the social  
28 services law, as amended by section 45 of part C of chapter 58 of the  
29 laws of 2005, is amended to read as follows:

30 [(e) in the case of each individual receiving enhanced residential  
31 care, an amount equal to at least \$144.00 for each month beginning on or  
32 after January first, two thousand six, and an amount equal to \$159.00  
33 for each month beginning on or after January first, two thousand seven.]

34 § 3. Paragraphs (a) and (b) of subdivision 2 of section 209 of the  
35 social services law, as amended by section 2 of part X of chapter 57 of  
36 the laws of 2008, are amended to read as follows:

37 (a) (i) On and after January first, two thousand [eight] nine, for an  
38 eligible individual living alone, [~~\$724.00~~] \$761.00; and for an eligible  
39 couple living alone, [~~\$1060.00~~] \$1115.00.

40 (ii) On and after June first, two thousand nine, for an eligible indi-  
41 vidual living alone, \$737.00; and for an eligible couple living alone,  
42 \$1088.00.

43 (iii) On and after January first, two thousand ten, for an eligible  
44 individual living alone, \$744.00; and for an eligible couple living  
45 alone, \$1096.00.

46 (b) (i) On and after January first, two thousand [eight] nine, for an  
47 eligible individual living with others with or without in-kind income,  
48 [~~\$660.00~~] \$697.00; and for an eligible couple living with others with or  
49 without in-kind income, [~~\$1002.00~~] \$1057.00.

50 (ii) On and after June first, two thousand nine, for an eligible indi-  
51 vidual living with others with or without in-kind income, \$681.00; and  
52 for an eligible couple living with others with or without in-kind  
53 income, \$1036.00.

1 (iii) On and after January first, two thousand ten for an eligible  
2 individual living with others with or without in-kind income, \$686.00;  
3 and for an eligible couple living with others with or without in-kind  
4 income, \$1043.00.

5 § 4. Paragraphs (c), (d) and (e) of subdivision 2 of section 209 of  
6 the social services law, as amended by section 2 of part X of chapter 57  
7 of the laws of 2008, are amended to read as follows:

8 (c) On and after January first, two thousand [eight] nine, (i) for an  
9 eligible individual receiving family care, [~~\$903.48~~] \$940.48 if he or  
10 she is receiving such care in the city of New York or the county of  
11 Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible  
12 couple receiving family care in the city of New York or the county of  
13 Nassau, Suffolk, Westchester or Rockland, two times the amount set forth  
14 in subparagraph (i) of this paragraph; or (iii) for an eligible individ-  
15 ual receiving such care in any other county in the state, [~~\$865.48~~]  
16 \$902.48; and (iv) for an eligible couple receiving such care in any  
17 other county in the state, two times the amount set forth in subpara-  
18 graph (iii) of this paragraph.

19 (d) On and after January first, two thousand [eight] nine, (i) for an  
20 eligible individual receiving residential care, [~~\$1072.00~~] \$1109.00 if  
21 he or she is receiving such care in the city of New York or the county  
22 of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible  
23 couple receiving residential care in the city of New York or the county  
24 of Nassau, Suffolk, Westchester or Rockland, two times the amount set  
25 forth in subparagraph (i) of this paragraph; or (iii) for an eligible  
26 individual receiving such care in any other county in the state,  
27 [~~\$1042.00~~] \$1079.00; and (iv) for an eligible couple receiving such care  
28 in any other county in the state, two times the amount set forth in  
29 subparagraph (iii) of this paragraph.

30 (e) (i) On and after January first, two thousand [eight] nine, for an  
31 eligible individual receiving enhanced residential care, [~~\$1293.00~~]  
32 \$1368.00; and (ii) for an eligible couple receiving enhanced residential  
33 care, two times the amount set forth in subparagraph (i) of this para-  
34 graph.

35 § 5. Subdivision 2 of section 209 of the social services law is  
36 amended by adding a new paragraph (f) to read as follows:

37 (f) The amounts set forth in subparagraph (iii) of paragraphs (a) and  
38 (b) of this subdivision and the amounts set forth in paragraphs (c)  
39 through (e) of this subdivision shall be increased to reflect any  
40 increases in federal supplemental security income benefits for individ-  
41 uals or couples which become effective on or after January first, two  
42 thousand ten but prior to June thirtieth, two thousand ten.

43 § 6. Paragraph (g) of subdivision 2 of section 209 of the social  
44 services law, as amended by chapter 713 of the laws of 2005, is amended  
45 to read as follows:

46 [(g) The amounts set forth in paragraphs (a) through (d) of this  
47 subdivision and the amounts set forth in subparagraph (ii) of paragraph  
48 (e) and subparagraph (ii) of paragraph (f) of this subdivision as added  
49 by section forty-six of part C of chapter fifty-eight of the laws of two  
50 thousand five shall be increased to reflect any increases in federal  
51 supplemental security income benefits for individuals or couples which  
52 become effective on or after January first, two thousand six but prior  
53 to June thirtieth, two thousand six; provided, however, that the amounts  
54 set forth in paragraphs (c), (d) and (f) of this subdivision with  
55 respect to eligible couples shall be increased by an amount sufficient

1 to establish standards for couples that are equal to twice the increase  
2 hereunder for eligible individuals.]

3 § 7. This act shall take effect immediately; provided however that  
4 sections one and four of this act shall take effect December 31, 2009;  
5 provided, further, that sections two, five and six of this act shall  
6 take effect on the same date as the reversion of sections 2 and 3 of  
7 part C of chapter 57 of the laws of 2006, as amended.

8 PART V

9 Section 1. Paragraph (a) of subdivision 1 of section 23 of the social  
10 services law, as amended by chapter 398 of the laws of 1997, is amended  
11 to read as follows:

12 (a) to social services districts: (i) with respect to applicants for  
13 and recipients of public assistance and care or other benefits pursuant  
14 to this chapter for which such districts are responsible[,]; (ii) with  
15 respect to any person legally responsible for the support of such appli-  
16 cants and recipients [and]; (iii) with respect to any person legally  
17 responsible for the support of a recipient of services under section one  
18 hundred eleven-g of this chapter or to any agent of any entity that is  
19 under contract with the child support program pursuant to title [six-a]  
20 six-A of article three of this chapter[,]; and (iv) with respect to the  
21 parents, the stepparents, the child and the siblings of the child who  
22 were living in the same household as a child who is in the care and  
23 custody or custody and guardianship of a local social services district  
24 or of the office of children and family services during the month that  
25 the court proceedings leading to the child's removal from the household  
26 were initiated, or the written instrument transferring care and custody  
27 of the child pursuant to the provisions of section three hundred fifty-  
28 eight-a of this chapter or section three hundred eighty-four-a of this  
29 chapter was signed, provided however, that such social services district  
30 shall only use the information obtained pursuant to this subdivision for  
31 the purpose of determining the eligibility of such child for federal  
32 payments for foster care and adoption assistance pursuant to the  
33 provisions of title IV-E of the federal social security act.

34 § 2. Subdivision 3 of section 23 of the social services law, as sepa-  
35 rately amended by chapters 304 and 818 of the laws of 1990, is amended  
36 to read as follows:

37 3. Information obtained by the [department] office of temporary and  
38 disability assistance from the wage reporting system operated by the  
39 state department of taxation and finance shall be considered confiden-  
40 tial and shall not be disclosed to persons or agencies other than those  
41 considered entitled to such information when such disclosure is neces-  
42 sary for the proper administration of programs of public assistance and  
43 care or for the proper administration of the child support program  
44 pursuant to title six-A of article three of this chapter, or of eligi-  
45 bility assessments of children for federal payments for foster care and  
46 adoption assistance pursuant to the provisions of title IV-E of the  
47 federal social security act. For the purpose of this subdivision, any  
48 disclosure made pursuant to subdivision one of this section shall be  
49 considered necessary for the proper administration of programs of public  
50 assistance and care, or of eligibility assessments of children for  
51 federal payments for foster care and adoption assistance pursuant to the  
52 provisions of title IV-E of the federal social security act; and the  
53 federal parent locator service shall be considered an agency entitled to  
54 such information as is necessary for the proper administration of the

1 child support program pursuant to title six-A of article three of this  
2 chapter.

3 § 3. Paragraph (a) of subdivision 3 of section 171-a of the tax law,  
4 as amended by chapter 304 of the laws of 1990 and as designated by chap-  
5 ter 818 of the laws of 1990, is amended to read as follows:

6 (a) Notwithstanding any law to the contrary, the commissioner of taxa-  
7 tion and finance shall maintain [a] cooperative [agreement] agreements  
8 with the state [department of social services] office of temporary and  
9 disability assistance, which [agreement] shall provide: (i) for the  
10 utilization by the office of temporary and disability assistance of  
11 information obtained pursuant to subdivision one [hereof] of this  
12 section, for the purpose of verifying eligibility for and entitlement to  
13 amounts of benefits under the social services law, locating absent  
14 parents or other persons legally responsible for the support of appli-  
15 cants or recipients of public assistance and care under the social  
16 services law and persons legally responsible for the support of a recip-  
17 ient of services under section one hundred eleven-g of the social  
18 services law and, in appropriate cases, establishing support obligations  
19 pursuant to the social services law and the family court act, and for  
20 the purpose of evaluating the effect on earnings of participation in  
21 employment or training programs authorized pursuant to the social  
22 services law by current recipients of public assistance and care and by  
23 former recipients of public assistance and care, such agreement shall  
24 further provide to the degree required by federal law for the commis-  
25 sioner [of taxation and finance] and the [social services department]  
26 office of temporary and disability assistance to provide information  
27 obtained pursuant to subdivision one of this section to the federal  
28 social security administration or to public agencies in other states  
29 which administer programs under the food stamp act of nineteen hundred  
30 seventy-seven or title I, II, IV-A, IV-D, X, XIV, XVI, or XIX of the  
31 federal social security act and to take such other steps as may be  
32 required by section one thousand one hundred thirty-seven of the social  
33 security act or federal regulations promulgated thereunder[.]; and (ii)  
34 for the utilization by the office of temporary and disability assistance  
35 of information obtained pursuant to subdivision one of this section,  
36 with respect to the parents, the stepparents, the child and the siblings  
37 of the child who were living in the same household as a child who is in  
38 the care and custody or custody and guardianship of a local social  
39 services district or of the office of children and family services  
40 during the month that the court proceedings leading to the child's  
41 removal from the household were initiated, or the written instrument  
42 transferring care and custody of the child pursuant to the provisions of  
43 section three hundred fifty-eight-a or three hundred eighty-four-a of  
44 the social services law was signed, provided however, that the office of  
45 temporary and disability assistance shall only use the information  
46 obtained pursuant to this subdivision, for the purpose of determining  
47 the eligibility of such child for federal payments for foster care and  
48 adoption assistance pursuant to the provisions of title IV-E of the  
49 federal social security act. Notwithstanding any other provision of  
50 law, the office of temporary and disability assistance is authorized to  
51 share information obtained pursuant to this subdivision with any appli-  
52 cable social services district or the office of children and family  
53 services, provided however, that if such information is shared, that  
54 such social services district or the office of children and family  
55 services shall only use the information obtained for the purpose of  
56 determining or confirming the eligibility of such child for federal



1 payments for foster care and adoption assistance pursuant to the  
2 provisions of title IV-E of the federal social security act.

3 § 4. Paragraph 3 of subsection (e) of section 697 of the tax law, as  
4 separately amended by section 1 of part M of chapter 57 and section 45-f  
5 of part C of chapter 58 of the laws of 2008, is amended to read as  
6 follows:

7 (3) Nothing herein shall be construed to prohibit the department, its  
8 officers or employees from furnishing information to the office of  
9 temporary and disability assistance relating to the payment of the cred-  
10 it for certain household and dependent care services necessary for gain-  
11 ful employment under subsection (c) of section six hundred six of this  
12 article and the earned income credit under subsection (d) of section six  
13 hundred six of this article, or pursuant to a local law enacted by a  
14 city having a population of one million or more pursuant to subsection  
15 (f) of section thirteen hundred ten of this chapter, only to the extent  
16 necessary to calculate qualified state expenditures under paragraph  
17 seven of subdivision (a) of section four hundred nine of the federal  
18 social security act or to document the proper expenditure of federal  
19 temporary assistance for needy families funds under section four hundred  
20 three of such act. The office of temporary and disability assistance may  
21 redisclose such information to the United States department of health  
22 and human services only to the extent necessary to calculate such quali-  
23 fied state expenditures or to document the proper expenditure of such  
24 federal temporary assistance for needy families funds. Nothing herein  
25 shall be construed to prohibit the delivery by the commissioner to a  
26 commissioner of jurors, appointed pursuant to section five hundred four  
27 of the judiciary law, or, in counties within cities having a population  
28 of one million or more, to the county clerk of such county, of a mailing  
29 list of individuals to whom income tax forms are mailed by the commis-  
30 sioner for the sole purpose of compiling a list of prospective jurors as  
31 provided in article sixteen of the judiciary law. Provided, however,  
32 such delivery shall only be made pursuant to an order of the chief  
33 administrator of the courts, appointed pursuant to section two hundred  
34 ten of the judiciary law. No such order may be issued unless such chief  
35 administrator is satisfied that such mailing list is needed to compile a  
36 proper list of prospective jurors for the county for which such order is  
37 sought and that, in view of the responsibilities imposed by the various  
38 laws of the state on the department, it is reasonable to require the  
39 commissioner to furnish such list. Such order shall provide that such  
40 list shall be used for the sole purpose of compiling a list of prospec-  
41 tive jurors and that such commissioner of jurors, or such county clerk,  
42 shall take all necessary steps to insure that the list is kept confiden-  
43 tial and that there is no unauthorized use or disclosure of such list.  
44 Furthermore, nothing herein shall be construed to prohibit the delivery  
45 to a taxpayer or his or her duly authorized representative of a certi-  
46 fied copy of any return or report filed in connection with his or her  
47 tax or to prohibit the publication of statistics so classified as to  
48 prevent the identification of particular reports or returns and the  
49 items thereof, or the inspection by the attorney general or other legal  
50 representatives of the state of the report or return of any taxpayer or  
51 of any employer filed under section one hundred seventy-one-h of this  
52 chapter, where such taxpayer or employer shall bring action to set aside  
53 or review the tax based thereon, or against whom an action or proceeding  
54 under this chapter or under this chapter and article eighteen of the  
55 labor law has been recommended by the commissioner, the commissioner of  
56 labor with respect to unemployment insurance matters, or the attorney



1 general or has been instituted, or the inspection of the reports or  
2 returns required under this article by the comptroller or duly desig-  
3 nated officer or employee of the state department of audit and control,  
4 for purposes of the audit of a refund of any tax paid by a taxpayer  
5 under this article, or the furnishing to the state department of labor  
6 of unemployment insurance information obtained or derived from quarterly  
7 combined withholding, wage reporting and unemployment insurance returns  
8 required to be filed by employers pursuant to paragraph four of  
9 subsection (a) of section six hundred seventy-four of this article, for  
10 purposes of administration of such department's unemployment insurance  
11 program, employment services program, federal and state employment and  
12 training programs, employment statistics and labor market information  
13 programs, worker protection programs, federal programs for which the  
14 department has administrative responsibility or for other purposes  
15 deemed appropriate by the commissioner of labor consistent with the  
16 provisions of the labor law, and redisclosure of such information in  
17 accordance with the provisions of sections five hundred thirty-six and  
18 five hundred thirty-seven of the labor law or any other applicable law,  
19 or the furnishing to the state office of temporary and disability  
20 assistance of information obtained or derived from New York state  
21 personal income tax returns as described in paragraph (b) of subdivision  
22 two of section one hundred seventy-one-g of this chapter for the purpose  
23 of reviewing support orders enforced pursuant to title six-A of article  
24 three of the social services law to aid in the determination of whether  
25 such orders should be adjusted, or the furnishing of information  
26 obtained from the reports required to be submitted by employers regard-  
27 ing newly hired or re-hired employees pursuant to section one hundred  
28 seventy-one-h of this chapter to the state office of temporary and disa-  
29 bility assistance, the state department of health, the state department  
30 of labor and the workers' compensation board for purposes of adminis-  
31 tration of the child support enforcement program, verification of indi-  
32 viduals' eligibility for one or more of the programs specified in  
33 subsection (b) of section eleven hundred thirty-seven of the federal  
34 social security act and for other public assistance programs authorized  
35 by state law, and administration of the state's employment security and  
36 workers' compensation programs, and to the national directory of new  
37 hires established pursuant to section four hundred fifty-three-A of the  
38 federal social security act for the purposes specified in such section,  
39 or the furnishing to the state office of temporary and disability  
40 assistance of the amount of an overpayment of income tax and interest  
41 thereon certified to the comptroller to be credited against past-due  
42 support pursuant to section one hundred seventy-one-c of this chapter  
43 and of the name and social security number of the taxpayer who made such  
44 overpayment, or the disclosing to the commissioner of finance of the  
45 city of New York, pursuant to section one hundred seventy-one-l of this  
46 chapter, of the amount of an overpayment and interest thereon certified  
47 to the comptroller to be credited against a city of New York tax warrant  
48 judgment debt and of the name and social security number of the taxpayer  
49 who made such overpayment, or the furnishing to the New York state high-  
50 er education services corporation of the amount of an overpayment of  
51 income tax and interest thereon certified to the comptroller to be cred-  
52 ited against the amount of a default in repayment of any education loan  
53 debt, including judgments, owed to the federal or New York state govern-  
54 ment that is being collected by the New York state higher education  
55 services corporation, and of the name and social security number of the  
56 taxpayer who made such overpayment, or the furnishing to the state





1 department of health of the information required by paragraph (f) of  
2 subdivision two and subdivision two-a of section two thousand five  
3 hundred eleven of the public health law and by subdivision eight of  
4 section three hundred sixty-six-a and paragraphs (b) and (d) of subdivi-  
5 sion two of section three hundred sixty-nine-ee of the social services  
6 law, or the furnishing to the state university of New York or the city  
7 university of New York respectively or the attorney general on behalf of  
8 such state or city university the amount of an overpayment of income tax  
9 and interest thereon certified to the comptroller to be credited against  
10 the amount of a default in repayment of a state university loan pursuant  
11 to section one hundred seventy-one-e of this chapter and of the name and  
12 social security number of the taxpayer who made such overpayment, or the  
13 disclosing to a state agency, pursuant to section one hundred seventy-  
14 one-f of this chapter, of the amount of an overpayment and interest  
15 thereon certified to the comptroller to be credited against a past-due  
16 legally enforceable debt owed to such agency and of the name and social  
17 security number of the taxpayer who made such overpayment, or the  
18 furnishing of employee and employer information obtained through the  
19 wage reporting system, pursuant to section one hundred seventy-one-a of  
20 this chapter, as added by chapter five hundred forty-five of the laws of  
21 nineteen hundred seventy-eight, to the state office of temporary and  
22 disability assistance, the department of health or to the state office  
23 of the medicaid inspector general for the purpose of verifying eligibil-  
24 ity for and entitlement to amounts of benefits under the social services  
25 law or similar law of another jurisdiction, locating absent parents or  
26 other persons legally responsible for the support of applicants for or  
27 recipients of public assistance and care under the social services law  
28 and persons legally responsible for the support of a recipient of  
29 services under section one hundred eleven-g of the social services law  
30 and, in appropriate cases, establishing support obligations pursuant to  
31 the social services law and the family court act or similar provision of  
32 law of another jurisdiction for the purpose of evaluating the effect on  
33 earnings of participation in employment, training or other programs  
34 designed to promote self-sufficiency authorized pursuant to the social  
35 services law by current recipients of public assistance and care and by  
36 former applicants and recipients of public assistance and care, (except  
37 that with regard to former recipients, information which relates to a  
38 particular former recipient shall be provided with client identifying  
39 data deleted), to the state office of temporary and disability assist-  
40 ance for the purpose of determining the eligibility of any child in the  
41 care and custody or custody and guardianship of a local social services  
42 district or of the office of children and family services for federal  
43 payments for foster care and adoption assistance pursuant to the  
44 provisions of title IV-E of the federal social security act by providing  
45 information with respect to the parents, the stepparents, the child and  
46 the siblings of the child who were living in the same household as such  
47 child during the month that the court proceedings leading to the child's  
48 removal from the household were initiated, or the written instrument  
49 transferring care and custody of the child pursuant to the provisions of  
50 section three hundred fifty-eight-a or three hundred eighty-four-a of  
51 the social services law was signed, provided however that the office of  
52 temporary and disability assistance shall only use the information  
53 obtained pursuant to this subdivision for the purpose of determining the  
54 eligibility of such child for federal payments for foster care and  
55 adoption assistance pursuant to the provisions of title IV-E of the  
56 federal social security act, and to the state department of labor, or



1 other individuals designated by the commissioner of labor, for the  
2 purpose of the administration of such department's unemployment insur-  
3 ance program, employment services program, federal and state employment  
4 and training programs, employment statistics and labor market informa-  
5 tion programs, worker protection programs, federal programs for which  
6 the department has administrative responsibility or for other purposes  
7 deemed appropriate by the commissioner of labor consistent with the  
8 provisions of the labor law, and redisclosure of such information in  
9 accordance with the provisions of sections five hundred thirty-six and  
10 five hundred thirty-seven of the labor law, or the furnishing of infor-  
11 mation, which is obtained from the wage reporting system operated pursu-  
12 ant to section one hundred seventy-one-a of this chapter, as added by  
13 chapter five hundred forty-five of the laws of nineteen hundred seven-  
14 ty-eight, to the state office of temporary and disability assistance so  
15 that it may furnish such information to public agencies of other juris-  
16 dictions with which the state office of temporary and disability assist-  
17 ance has an agreement pursuant to paragraph (h) or (i) of subdivision  
18 three of section twenty of the social services law, and to the state  
19 office of temporary and disability assistance for the purpose of  
20 fulfilling obligations and responsibilities otherwise incumbent upon the  
21 state department of labor, under section one hundred twenty-four of the  
22 federal family support act of nineteen hundred eighty-eight, by giving  
23 the federal parent locator service, maintained by the federal department  
24 of health and human services, prompt access to such information as  
25 required by such act, or to the state department of health to verify  
26 eligibility under the child health insurance plan pursuant to subdivi-  
27 sions two and two-a of section two thousand five hundred eleven of the  
28 public health law, to verify eligibility under the medical assistance  
29 and family health plus programs pursuant to subdivision eight of section  
30 three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two  
31 of section three hundred sixty-nine-ee of the social services law, and  
32 to verify eligibility for the program for elderly pharmaceutical insur-  
33 ance coverage under title three of article two of the elder law, or to  
34 the office of vocational and educational services for individuals with  
35 disabilities of the education department, the commission for the blind  
36 and visually handicapped and any other state vocational rehabilitation  
37 agency, for purposes of obtaining reimbursement from the federal social  
38 security administration for expenditures made by such office, commission  
39 or agency on behalf of disabled individuals who have achieved economic  
40 self-sufficiency or to the higher education services corporation for the  
41 purpose of assisting the corporation in default prevention and default  
42 collection of education loan debt, including judgments, owed to the  
43 federal or New York state government; provided, however, that such  
44 information shall be limited to the names, social security numbers, home  
45 and/or business addresses, and employer names of defaulted or delinquent  
46 student loan borrowers.

47 Provided, however, that with respect to employee information the  
48 office of temporary and disability assistance shall only be furnished  
49 with the names, social security account numbers and gross wages of those  
50 employees who are (A) applicants for or recipients of benefits under the  
51 social services law, or similar provision of law of another jurisdiction  
52 (pursuant to an agreement under subdivision three of section twenty of  
53 the social services law) or, (B) absent parents or other persons legally  
54 responsible for the support of applicants for or recipients of public  
55 assistance and care under the social services law or similar provision  
56 of law of another jurisdiction (pursuant to an agreement under subdivi-



1 sion three of section twenty of the social services law), or (C) persons  
2 legally responsible for the support of a recipient of services under  
3 section one hundred eleven-g of the social services law or similar  
4 provision of law of another jurisdiction (pursuant to an agreement under  
5 subdivision three of section twenty of the social services law), or (D)  
6 employees about whom wage reporting system information is being  
7 furnished to public agencies of other jurisdictions, with which the  
8 state office of temporary and disability assistance has an agreement  
9 pursuant to paragraph (h) or (i) of subdivision three of section twenty  
10 of the social services law, or (E) employees about whom wage reporting  
11 system information is being furnished to the federal parent locator  
12 service, maintained by the federal department of health and human  
13 services, for the purpose of enabling the state office of temporary and  
14 disability assistance to fulfill obligations and responsibilities other-  
15 wise incumbent upon the state department of labor, under section one  
16 hundred twenty-four of the federal family support act of nineteen  
17 hundred eighty-eight, and, only if, the office of temporary and disabil-  
18 ity assistance certifies to the commissioner that such persons are such  
19 applicants, recipients, absent parents or persons legally responsible  
20 for support or persons about whom information has been requested by a  
21 public agency of another jurisdiction or by the federal parent locator  
22 service and further certifies that in the case of information requested  
23 under agreements with other jurisdictions entered into pursuant to  
24 subdivision three of section twenty of the social services law, that  
25 such request is in compliance with any applicable federal law. Provided,  
26 further, that where the office of temporary and disability assistance  
27 requests employee information for the purpose of evaluating the effects  
28 on earnings of participation in employment, training or other programs  
29 designed to promote self-sufficiency authorized pursuant to the social  
30 services law, the office of temporary and disability assistance shall  
31 only be furnished with the quarterly gross wages (excluding any refer-  
32 ence to the name, social security number or any other information which  
33 could be used to identify any employee or the name or identification  
34 number of any employer) paid to employees who are former applicants for  
35 or recipients of public assistance and care and who are so certified to  
36 the commissioner by the commissioner of the office of temporary and  
37 disability assistance. Provided, further, that with respect to employee  
38 information, the department of health shall only be furnished with the  
39 information required pursuant to the provisions of paragraph (f) of  
40 subdivision two and subdivision two-a of section two thousand five  
41 hundred eleven of the public health law and subdivision eight of section  
42 three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two  
43 of section three hundred sixty-nine-ee of the social services law, with  
44 respect to those individuals whose eligibility under the child health  
45 insurance plan, medical assistance program, and family health plus  
46 program is to be determined pursuant to such provisions and with respect  
47 to those members of any such individual's household whose income affects  
48 such individual's eligibility and who are so certified to the commis-  
49 sioner or by the department of health. Provided, further, that wage  
50 reporting information shall be furnished to the office of vocational and  
51 educational services for individuals with disabilities of the education  
52 department, the commission for the blind and visually handicapped and  
53 any other state vocational rehabilitation agency only if such office,  
54 commission or agency, as applicable, certifies to the commissioner that  
55 such information is necessary to obtain reimbursement from the federal  
56 social security administration for expenditures made on behalf of disa-



1 bled individuals who have achieved self-sufficiency. Reports and returns  
2 shall be preserved for three years and thereafter until the commissioner  
3 orders them to be destroyed.

4 § 5. Section 697 of the tax law is amended by adding a new subsection  
5 (o) to read as follows:

6 (o) Exchange of information with the office of temporary and disabili-  
7 ty assistance. Notwithstanding any provision of law to the contrary,  
8 the department shall furnish to the office of temporary and disability  
9 assistance, or as designated by the commissioner of the office of tempo-  
10 rary and disability assistance, to employees of a local social services  
11 district or the office of children and family services who are engaged  
12 in the process of determining or confirming the eligibility of children  
13 in the care and custody or custody and guardianship of a local social  
14 services district or the office of children and family services for  
15 federal payments for foster care and adoption assistance pursuant to the  
16 provisions of title IV-E of the federal social security act, the name,  
17 social security number and wages of the parents, the stepparents, the  
18 child and the siblings of the child who were living in the same house-  
19 hold as a child who is in the care and custody or custody and guardian-  
20 ship of a local social services district or of the office of children  
21 and family services during the month that the court proceedings leading  
22 to the child's removal from the household were initiated, or the written  
23 instrument transferring care and custody of the child pursuant to the  
24 provisions of section three hundred fifty-eight-a or three hundred  
25 eighty-four-a of the social services law was signed; provided however,  
26 that the office of temporary and disability assistance, such social  
27 services district, or the office of children and family services shall  
28 only use the information obtained pursuant to this subsection for the  
29 purpose of determining or confirming the eligibility of such child for  
30 federal payments for foster care and adoption assistance pursuant to the  
31 provisions of title IV-E of the federal social security act.

32 § 6. This act shall take effect immediately.

33

## PART W

34 Section 1. The opening paragraph and paragraph (c) of subdivision 15  
35 of section 501 of the executive law, as amended by section 1 of part H  
36 of chapter 58 of the laws of 2006, are amended to read as follows:

37 In the event that the office of children and family services deter-  
38 mines that significant service reductions, public employee staffing  
39 reductions and/or the transfer of operations to a private or not-for-  
40 profit entity are anticipated in the office of children and family  
41 services long term planning process or for a particular facility [in a  
42 future year], to take the following actions:

43 (c) provide for a mechanism which may reasonably be expected to  
44 provide notice to local governments, community organizations, employee  
45 labor organizations, managerial and confidential employees, consumer and  
46 advocacy groups of the potential for significant service reductions,  
47 public employee staffing reductions and/or the transfer of operations to  
48 a private or not-for-profit entity at such state-operated facilities[,  
49 at least twelve months] prior to commencing such service reduction; and

50 § 2. This act shall take effect immediately and shall be deemed to  
51 have been in full force and effect on and after March 1, 2009.

52

## PART X



1 Section 1. Paragraph (f) of subdivision 1 of section 424-a of the  
2 social services law, as amended by chapter 441 of the laws of 1993, is  
3 amended to read as follows:

4 (f) The [department] office of children and family services shall  
5 charge a fee of [five] twenty-five dollars when[, pursuant to regu-  
6 lations of the department,] it conducts a search of its records within  
7 the statewide central register for child abuse or maltreatment in  
8 accordance with this section, the domestic relations law, the family  
9 court act, the surrogate's court procedure act, or regulations of the  
10 [department] office to determine whether an [applicant for employment as  
11 specified in paragraph (b) of this subdivision] individual is the  
12 subject of an indicated child abuse or maltreatment report, except that  
13 fees shall not be charged for requests for screenings related to [appli-  
14 cations for child day care providers or for employment with child day  
15 care providers including requests made pursuant to subdivision six of  
16 this section] individuals applying to be a foster parent or prospective  
17 adoptive parent of a foster child and any person over the age of eigh-  
18 teen residing in the home of such an applicant or to individuals apply-  
19 ing to operate a family care home. Such fees shall be deposited in an  
20 account and a portion shall be made available to the [department] office  
21 for costs incurred in the implementation of this section. [Procedures  
22 for payment of such fees shall be established by the regulations of the  
23 department.]

24 § 2. This act shall take effect immediately and shall apply to any  
25 request for a search of the records of the statewide central register of  
26 child abuse or maltreatment that is received by the office of children  
27 and family services on or after March 1, 2009.

28 PART Y

29 Section 1. Paragraph (a) of subdivision 2 of section 131-a of the  
30 social services law, as amended by chapter 77 of the laws of 1989, is  
31 amended and three new paragraphs (a-1), (a-2) and (a-3) are added to  
32 read as follows:

33 (a) [The] Through December thirty-first, two thousand nine, the  
34 following schedule shall be the standard of monthly need for determining  
35 eligibility for all categories of assistance in and by all social  
36 services districts:

| Number of Persons in Household |       |       |       |       |       |
|--------------------------------|-------|-------|-------|-------|-------|
| One                            | Two   | Three | Four  | Five  | Six   |
| \$112                          | \$179 | \$238 | \$307 | \$379 | \$438 |

40 For each additional person in the household there shall be added an  
41 additional amount of sixty dollars monthly.

42 (a-1) For the period beginning January first, two thousand ten and  
43 ending December thirty-first, two thousand ten, the following schedule  
44 shall be the standard of monthly need for determining eligibility for  
45 all categories of assistance in and by all social services districts:

| Number of Persons in Household |              |              |              |              |              |
|--------------------------------|--------------|--------------|--------------|--------------|--------------|
| <u>One</u>                     | <u>Two</u>   | <u>Three</u> | <u>Four</u>  | <u>Five</u>  | <u>Six</u>   |
| <u>\$126</u>                   | <u>\$201</u> | <u>\$268</u> | <u>\$345</u> | <u>\$426</u> | <u>\$492</u> |

48 For each additional person in the household there shall be added an  
49 additional amount of sixty-seven dollars monthly.

51 (a-2) For the period beginning January first, two thousand eleven and  
52 ending December thirty-first, two thousand eleven, the following sched-  
53 ule shall be the standard of monthly need for determining eligibility

1 for all categories of assistance in and by all social services  
2 districts:

|   |                                       |              |              |              |              |              |
|---|---------------------------------------|--------------|--------------|--------------|--------------|--------------|
| 3 | <u>Number of Persons in Household</u> |              |              |              |              |              |
| 4 | <u>One</u>                            | <u>Two</u>   | <u>Three</u> | <u>Four</u>  | <u>Five</u>  | <u>Six</u>   |
| 5 | <u>\$141</u>                          | <u>\$225</u> | <u>\$300</u> | <u>\$386</u> | <u>\$477</u> | <u>\$551</u> |

6 For each additional person in the household there shall be added an  
7 additional amount of seventy-five dollars monthly.

8 (a-3) For the period beginning January first, two thousand twelve and  
9 thereafter, the following schedule shall be the standard of monthly need  
10 for determining eligibility for all categories of assistance in and by  
11 all social services districts:

|    |                                       |              |              |              |              |              |
|----|---------------------------------------|--------------|--------------|--------------|--------------|--------------|
| 12 | <u>Number of Persons in Household</u> |              |              |              |              |              |
| 13 | <u>One</u>                            | <u>Two</u>   | <u>Three</u> | <u>Four</u>  | <u>Five</u>  | <u>Six</u>   |
| 14 | <u>\$158</u>                          | <u>\$252</u> | <u>\$335</u> | <u>\$432</u> | <u>\$533</u> | <u>\$616</u> |

15 For each additional person in the household there shall be added an  
16 additional amount of eighty-four dollars monthly.

17 § 2. Paragraph (a) of subdivision 3 of section 131-a of the social  
18 services law, as amended by section 12 of part B of chapter 436 of the  
19 laws of 1997, is amended and three new paragraphs (a-1), (a-2) and (a-3)  
20 are added to read as follows:

21 (a) [Persons] Through December thirty-first, two thousand nine,  
22 persons and families determined to be eligible by the application of the  
23 standard of need prescribed by the provisions of subdivision two of this  
24 section, less any available income or resources which are not required  
25 to be disregarded by other provisions of this chapter, shall receive  
26 maximum monthly grants and allowances in all social services districts,  
27 in accordance with the following schedule, for public assistance:

|    |                                       |              |              |              |              |              |
|----|---------------------------------------|--------------|--------------|--------------|--------------|--------------|
| 28 | <u>Number of Persons in Household</u> |              |              |              |              |              |
| 29 | <u>One</u>                            | <u>Two</u>   | <u>Three</u> | <u>Four</u>  | <u>Five</u>  | <u>Six</u>   |
| 30 | <u>\$112</u>                          | <u>\$179</u> | <u>\$238</u> | <u>\$307</u> | <u>\$379</u> | <u>\$438</u> |

31 For each additional eligible needy person in the household there shall  
32 be an additional allowance of sixty dollars monthly.

33 (a-1) For the period beginning January first, two thousand ten and  
34 ending December thirty-first, two thousand ten, persons and families  
35 determined to be eligible by the application of the standard of need  
36 prescribed by the provisions of subdivision two of this section, less  
37 any available income or resources which are not required to be disre-  
38 garded by other provisions of this chapter, shall receive maximum month-  
39 ly grants and allowances in all social services districts, in accordance  
40 with the following schedule, for public assistance:

|    |                                       |              |              |              |              |              |
|----|---------------------------------------|--------------|--------------|--------------|--------------|--------------|
| 41 | <u>Number of Persons in Household</u> |              |              |              |              |              |
| 42 | <u>One</u>                            | <u>Two</u>   | <u>Three</u> | <u>Four</u>  | <u>Five</u>  | <u>Six</u>   |
| 43 | <u>\$126</u>                          | <u>\$201</u> | <u>\$268</u> | <u>\$345</u> | <u>\$426</u> | <u>\$492</u> |

44 For each additional person in the household there shall be added an  
45 additional amount of sixty-seven dollars monthly.

46 (a-2) For the period beginning January first, two thousand eleven and  
47 ending December thirty-first, two thousand eleven, persons and families  
48 determined to be eligible by the application of the standard of need  
49 prescribed by the provisions of subdivision two of this section, less  
50 any available income or resources which are not required to be disre-  
51 garded by other provisions of this chapter, shall receive maximum month-  
52 ly grants and allowances in all social services districts, in accordance  
53 with the following schedule, for public assistance:

|    |                                       |              |              |              |              |              |
|----|---------------------------------------|--------------|--------------|--------------|--------------|--------------|
| 54 | <u>Number of Persons in Household</u> |              |              |              |              |              |
| 55 | <u>One</u>                            | <u>Two</u>   | <u>Three</u> | <u>Four</u>  | <u>Five</u>  | <u>Six</u>   |
| 56 | <u>\$141</u>                          | <u>\$225</u> | <u>\$300</u> | <u>\$386</u> | <u>\$477</u> | <u>\$551</u> |

1 For each additional person in the household there shall be added an  
2 additional amount of seventy-five dollars monthly.

3 (a-3) For the period beginning January first, two thousand twelve and  
4 thereafter, persons and families determined to be eligible by the appli-  
5 cation of the standard of need prescribed by the provisions of subdivi-  
6 sion two of this section, less any available income or resources which  
7 are not required to be disregarded by other provisions of this chapter,  
8 shall receive maximum monthly grants and allowances in all social  
9 services districts, in accordance with the following schedule, for  
10 public assistance:

| <u>Number of Persons in Household</u> |              |              |              |              |              |  |
|---------------------------------------|--------------|--------------|--------------|--------------|--------------|--|
| <u>One</u>                            | <u>Two</u>   | <u>Three</u> | <u>Four</u>  | <u>Five</u>  | <u>Six</u>   |  |
| <u>\$158</u>                          | <u>\$252</u> | <u>\$335</u> | <u>\$432</u> | <u>\$533</u> | <u>\$616</u> |  |

14 For each additional person in the household there shall be added an  
15 additional amount of eighty-four dollars monthly.

16 § 3. This act shall take effect immediately and shall be deemed to  
17 have been in full force and effect on and after March 1, 2009.

18 PART Z

19 Section 1. Section 39 of part P2 of chapter 62 of the laws of 2003  
20 amending the state finance law and other laws relating to authorizing  
21 and directing the state comptroller to loan money to certain funds and  
22 accounts, as amended by section 1 of part K of chapter 57 of the laws of  
23 2008, is amended to read as follows:

24 § 39. This act shall take effect immediately and shall be deemed to  
25 have been in full force and effect on and after April 1, 2003; provided,  
26 however, that sections one, three, four, six, seven through fifteen, and  
27 seventeen of this act shall expire March 31, 2004, when upon such date  
28 the provisions of such sections shall be deemed repealed; and sections  
29 thirty and thirty-one of this act shall expire December 31, [2009] 2011  
30 and the amendments made to section 69-c of the state finance law by  
31 section thirty-two of this act shall not affect the expiration and  
32 repeal of such section and shall be deemed to be expired therewith.

33 § 2. This act shall take effect immediately.

34 PART AA

35 Section 1. Subparagraph (vi) of paragraph c of subdivision 4 of  
36 section 297 of the executive law, as amended by chapter 166 of the laws  
37 of 2000, is amended to read as follows:

38 (vi) assessing civil fines and penalties, [in cases of housing  
39 discrimination only,] in an amount not to exceed fifty thousand dollars,  
40 to be paid to the state by a respondent found to have committed an  
41 unlawful discriminatory act, or not to exceed one hundred thousand  
42 dollars to be paid to the state by a respondent found to have committed  
43 an unlawful discriminatory act which is found to be willful, wanton or  
44 malicious;

45 § 2. Subdivision 4 of section 297 of the executive law is amended by  
46 adding a new paragraph e to read as follows:

47 e. Any civil penalty imposed pursuant to this subdivision shall be  
48 separately stated, and shall be in addition to and not reduce or offset  
49 any other damages or payment imposed upon a respondent pursuant to such  
50 section. In cases of employment discrimination where the employer has  
51 fewer than fifty employees, such civil fine or penalty may be paid in  
52 reasonable installments, in accordance with regulations promulgated by

1 the division. Such regulations shall require the payment of reasonable  
2 interest resulting from the delay, and in no case permit installments to  
3 be made over a period longer than three years.

4 § 3. This act shall take effect on the ninetieth day after it shall  
5 have become a law.

6 PART BB

7 Section 1. Subdivisions 2, 3 and 5 of section 903 of the labor law,  
8 subdivisions 2 and 5 as amended by section 9 of part A of chapter 57 of  
9 the laws of 2004 and subdivision 3 as amended by chapter 190 of the laws  
10 of 1990, are amended to read as follows:

11 2. The fee for an asbestos handling license shall be [five hundred]  
12 one thousand dollars, which shall accompany each license application.

13 3. The renewal fee for an asbestos handling license shall be [three]  
14 six hundred dollars, which shall accompany each license renewal applica-  
15 tion.

16 5. The fee for an asbestos handling certificate shall be assessed in  
17 accordance with the following and shall accompany each certificate  
18 application.

| 19 Schedule: Asbestos Handling Certificate Category | Application<br>20 Fee             |
|---|-----------------------------------|
| 21 Management Planner                               | [ <del>\$150</del> ] <u>\$300</u> |
| 22 Project Designer                                 | [150] <u>300</u>                  |
| 23 Inspector  | [100] <u>200</u>                  |
| 24 Air Monitor                                      | [75] <u>150</u>                   |
| 25 Supervisor                                       | [75] <u>150</u>                   |
| 26 Asbestos Handler                                 | [50] <u>100</u>                   |
| 27 Operation and Maintenance                        | [50] <u>100</u>                   |
| 28 Restricted Handler                               | [50] <u>100</u>                   |
| 29 <u>Project Monitor</u>                           | <u>300</u>                        |

30 § 2. Subdivision 2 of section 904 of the labor law, as amended by  
31 chapter 190 of the laws of 1990, is amended to read as follows:

32 2. Any contractor engaged in an asbestos project involving more than  
33 two hundred sixty linear feet or more than one hundred sixty square feet  
34 of asbestos or asbestos materials shall notify both the United States  
35 Environmental Protection Agency, Region II, Air and Hazardous Material  
36 Division and the commissioner in writing ten days prior to the commence-  
37 ment of work on the project or, if emergency conditions make it impossi-  
38 ble to provide ten days prior notice, as soon as practicable after iden-  
39 tification of the project. The notice to the commissioner shall include  
40 the following information: the name, address and asbestos handling  
41 license number of the contractor working on the project; the address and  
42 description of the building or area, including size, age and prior use  
43 of the building or area; the amount of friable asbestos material present  
44 in square feet and/or linear feet, if applicable; room designation  
45 numbers or other local information where such asbestos material is found  
46 unless such material is found throughout the entire structure; the  
47 scheduled starting and completion dates for removal; the procedures and  
48 equipment, including ventilating systems that will be employed; any  
49 additional information which the commissioner may require; and shall be  
50 accompanied by a project notification fee as follows:

| 51 Project Size/Linear Feet | Fee |
|-----------------------------|-----|
|-----------------------------|-----|



|   |              |                      |
|---|--------------|----------------------|
| 1 | 260-429      | [\$100] <u>\$200</u> |
| 2 | 430-824      | [200] <u>400</u>     |
| 3 | 825-1649     | [500] <u>1,000</u>   |
| 4 | 1650 or more | [1000] <u>2,000</u>  |

|   |                          |                      |
|---|--------------------------|----------------------|
| 5 | Project Size/Square Feet | Fee                  |
| 6 | 160-259                  | [\$100] <u>\$200</u> |
| 7 | 260-499                  | [200] <u>400</u>     |
| 8 | 500-999                  | [500] <u>1,000</u>   |
| 9 | 1000 or more             | [1000] <u>2,000</u>  |

10 § 3. Subdivision 3 and paragraph a of subdivision 8 of section 204 of  
 11 the labor law, subdivision 3 as amended by section 2 of part A of chap-  
 12 ter 57 of the laws of 2004 and paragraph a of subdivision 8 as amended  
 13 by section 3 of part A of chapter 57 of the laws of 2004, are amended to  
 14 read as follows:

15 3. Fees. A fee of [two] four hundred dollars shall be charged the  
 16 owner or lessee of each boiler internally inspected and [seventy-five]  
 17 one hundred fifty dollars for each boiler externally inspected by the  
 18 commissioner, provided however, that the external inspection of multiple  
 19 boilers connected to a common header or of separate systems owned or  
 20 leased by the same party and located in the same building, with a  
 21 combined input which is 300,000 BTU/hour or less, shall be charged a  
 22 single inspection fee, and further provided that, not more than [two  
 23 hundred seventy-five] five hundred fifty dollars shall be charged for  
 24 the inspection of any one boiler for any year; except that in the case  
 25 of an antique steam engine maintained as a hobby and displayed at agri-  
 26 cultural fairs and other gatherings, a fee of [twenty-five] fifty  
 27 dollars only shall be charged the owner or lessee thereof for each boil-  
 28 er internally inspected by the commissioner and a fee of [twenty-five]  
 29 fifty dollars only shall be charged for each boiler externally inspected  
 30 by the commissioner, but not more than [fifty] one hundred dollars shall  
 31 be charged for the inspection of any one such boiler for any year, and  
 32 except that in the case of a miniature boiler a fee of [fifty] one  
 33 hundred dollars only shall be charged for the inspection of any one such  
 34 boiler for any year. Such fee shall be payable within thirty days after  
 35 inspection.

36 a. All boilers which are inspected by a duly authorized insurance  
 37 company shall be exempt from inspection by the commissioner and by  
 38 cities which qualify under the provisions of subdivision seven of this  
 39 section, under the following conditions: (1) that inspections by the  
 40 insurance company are made with the same frequency as is required by  
 41 this section except that, for all such boilers located within a city  
 42 which qualifies under the provisions of subdivision seven of this  
 43 section, inspections are made with the same frequency as is required by  
 44 such city; (2) that the insurance company complies with the rules of the  
 45 commissioner; (3) that the inspectors of the insurance company hold  
 46 certificates of competency; (4) that the insurance company gives notice  
 47 to the owner or lessee of each boiler inspected listing all violations  
 48 of any provision of the rules of the commissioner; (5) that a certified  
 49 copy of the report of each inspection is filed with the commissioner or  
 50 the inspecting agency of such city, as the case may be, within twenty-  
 51 one days of the inspection, on such forms and in such manner as required  
 52 by the commissioner or the inspecting agency of such city, as the case  
 53 may be. A copy filed with the commissioner shall be accompanied by a

1 non-refundable fee of [fifty] one hundred dollars paid for each boiler  
2 inspected. If insurance is refused, cancelled or discontinued for the  
3 boiler inspected the report shall so state, together with the reasons  
4 therefor; the report shall also list any instances of the failure of an  
5 owner or lessee of the boiler to comply with the rules of the commis-  
6 sioner.

7 § 4. This act shall take effect immediately.

8

PART CC

9 Section 1. Subdivisions 1 and 2 of section 450 of the labor law,  
10 subdivision 1 as amended by chapter 809 of the laws of 1949 and subdivi-  
11 sion 2 as amended by chapter 1022 of the laws of 1970, are amended to  
12 read as follows:

13 1. This article shall apply to persons engaged in the manufacture,  
14 ownership, possession, storage, use, transportation, purchase, sale or  
15 gift of explosives as defined in subdivision one of section four hundred  
16 fifty-one of this article.

17 2. This article shall not apply to explosives while being transported  
18 in conformity with federal law or regulations, nor except as may be  
19 herein otherwise provided to persons who manufacture, own, possess,  
20 store, use, transport, purchase, sell or give explosives within the  
21 territorial boundaries of cities having more than one million inhabit-  
22 ants, nor to any of the following while in the performance of their  
23 official duties: the armed forces of the United States, the national  
24 guard, the state guard and duly constituted police and firefighting  
25 forces of the state and its civil and political subdivisions.

26 § 2. Section 451 of the labor law, as amended by chapter 809 of the  
27 laws of 1949, subdivision 1 as amended by chapter 220 of the laws of  
28 1974 and subdivision 11 as renumbered by chapter 1022 of the laws of  
29 1970, is amended to read as follows:

30 § 451. Definitions. Whenever used in this article: 1. "Explosives"  
31 means gunpowder, powders used for blasting, high explosives, blasting  
32 materials, detonating fuses, detonators, pyrotechnics and other detonat-  
33 ing agents, fireworks and dangerous fireworks as defined in section  
34 270.00 of the penal law, smokeless powder and any chemical compound or  
35 any mechanical mixture containing any oxidizing and combustible units,  
36 or other ingredients in such proportions, quantities, or packing that  
37 ignition by fire, friction, concussion, percussion or detonation of any  
38 part thereof may cause and is intended to cause an explosion, but shall  
39 not include gasoline, kerosene, naphtha, turpentine, benzine, acetone,  
40 ethyl ether, benzol [and all] or quantities of black powder not exceed-  
41 ing five pounds for use in firing of antique firearms or artifacts or  
42 replicas thereof. Fixed ammunition and primers for small arms, [fire-  
43 crackers,] pyrotechnic devices which are designed for and being used for  
44 legitimate wildlife management or controls, safety fuses and matches  
45 shall not be deemed to be explosives when, [as may be determined by the  
46 board in its rules] as provided by regulation, the individual units  
47 contain any of the above-mentioned articles or substances in such limit-  
48 ed quantity, of such nature and so packed that it is impossible to  
49 produce an explosion of such units to the injury of life, limb or prop-  
50 erty.

51 2. "Highway" means any public street, public highway, public alley or  
52 navigable [stream] waterway, which is open for traffic. Navigable  
53 [streams] waterways shall be considered as only those [streams] suscep-



1 tible of being used, in their ordinary condition, as highways of  
2 commerce.

3 3. "Railroad" or "railway" means any railroad [which] that carries  
4 passengers or freight for hire, but shall not include auxiliary tracks,  
5 spurs and sidings installed and primarily used in serving any mine,  
6 quarry or plant.

7 4. "Building" means any building regularly occupied in whole or in  
8 part as a habitation for human beings, and any church, school house,  
9 railway station or other building or place where people are accustomed  
10 to live, work or assemble, but does not mean or include any of the  
11 buildings of a manufacturing plant where the business of manufacturing  
12 explosives is carried on.

13 5. "Explosives factory" means any building or other structure in which  
14 the manufacture of explosives or any part of the manufacture thereof is  
15 carried on.

16 6. "Magazine" means any building or other structure, other than an  
17 explosives factory, used to store explosives.

18 7. "Efficient barricade" means natural features of the ground, a dense  
19 woods, an artificial mound or a properly revetted wall of earth not less  
20 than three feet thick at the top, spaced at least three feet at the  
21 bottom from any explosives factory or magazine, the height of which is  
22 such that any straight line drawn from the top of any side wall of the  
23 explosives factory or magazine to the top of a building or to a point  
24 twelve feet above the center of a railroad or highway to be protected  
25 will pass through such intervening barricade.

26 8. "Person" includes any natural person, partnership, association or  
27 corporation.

28 9. "Manufacturer" means any person who is engaged in the manufacture  
29 or production of explosives.

30 10. "Dealer" means any person engaged in the business of buying and  
31 selling explosives.

32 11. [A "farmer" is a person who occupies and cultivates land.] "Pyro-  
33 technics" means any combustible or explosive compositions of manufac-  
34 tured articles designed and prepared for the purpose of producing audi-  
35 ble or visible effects that are commonly referred to as fireworks.

36 § 3. Section 452 of the labor law, as amended by chapter 190 of the  
37 laws of 1989, is amended to read as follows:

38 § 452. Packing and labeling. No person shall own, possess, store, deal  
39 in, sell, give or purchase explosives unless the packing, or encasement,  
40 and the marking and labeling of such explosives shall comply with the  
41 [rules of the board] regulations promulgated pursuant to this article.

42 § 4. Section 453 of the labor law, as added by chapter 809 of the laws  
43 of 1949, the second undesignated paragraph as amended by chapter 190 of  
44 the laws of 1989, is amended to read as follows:

45 § 453. Storage. No person shall store explosives except in a magazine  
46 constructed [and], located and certified in accordance with the  
47 provisions of this article and the [rules of the board and unless a  
48 certificate, which] regulations promulgated pursuant to this article.  
49 The magazine certificate shall be attached to the magazine on the inside  
50 [thereof, has been issued for] of each such magazine. No person shall  
51 store more than three hundred thousand pounds of explosives in any one  
52 magazine at any time. Explosives not stored in compliance with this  
53 section shall be deemed to present a danger to the public, including but  
54 not limited to, emergency responders and other persons lawfully frequen-  
55 ting the area and as such, are subject to seizure and destruction pursu-  
56 ant to subdivision five of section four hundred sixty of this article.

1 This section shall not apply to explosives while being legally blasted  
2 or while legally in the custody of a common carrier awaiting shipment or  
3 delivery to a consignee during the time permitted by federal law; nor to  
4 the storage of such limited amount of sporting or smokeless powders as  
5 may be permitted by the [rules of the board] regulations promulgated  
6 pursuant to this article.

7 § 5. Section 454 of the labor law, as amended by chapter 477 of the  
8 laws of 1943, is amended to read as follows:

9 § 454. Construction of magazines. Unless otherwise prescribed by the  
10 [board in its rules] regulations promulgated pursuant to this article,  
11 magazines in which explosives shall be lawfully kept or stored shall be  
12 constructed of brick, concrete, [iron] metal or wood covered with [iron]  
13 metal, and shall have no openings except for ventilation and entrance.  
14 All explosive magazines, except those in mines and tunnels, shall be  
15 located above ground. All explosive magazines shall be kept clean and  
16 dry at all times.

17 § 6. Section 455 of the labor law, as amended by chapter 809 of the  
18 laws of 1949, is amended to read as follows:

19 § 455. Magazine precautions. 1. No [person] individual shall unlock  
20 [or], open the doors of, or access the contents of, explosive magazines,  
21 except for the lawful storage or removal of explosives and in accordance  
22 with regulations of the commissioner. No employer shall allow any indi-  
23 vidual access to the explosive magazines or explosives of the employer  
24 unless a license has been issued to the individual by the commissioner  
25 as provided in this article, or the individual is under the direct  
26 supervision of the license holder.

27 No person shall have matches or fire of any kind in any magazine. No  
28 person shall store or keep blasting caps, detonating or fulminating  
29 caps, or detonators in a magazine in which any other type of explosive  
30 is stored or kept. No person shall open any package of explosives within  
31 fifty feet of any magazine, nor shall any explosives be kept in a maga-  
32 zine except in the original containers, or as otherwise provided by  
33 regulations promulgated under this article. No person shall discharge  
34 firearms within five hundred feet of a magazine or explosives factory,  
35 or at or against any such building or magazine. Any theft or loss of  
36 explosives from a storage magazine or otherwise, shall immediately be  
37 reported to the [industrial] commissioner and the state or local police  
38 or county sheriff.

39 § 7. Section 456 of the labor law, as amended by chapter 461 of the  
40 laws of 1950, is amended to read as follows:

41 § 456. Location of magazines. The quantity of explosives that may be  
42 stored in any explosives factory or magazine shall depend upon its  
43 distances from the nearest building, railroad or highway or other maga-  
44 zine. The distances that a quantity of explosives may be stored from the  
45 nearest magazine, building, railroad or highway, shall be as determined  
46 by the [rules of the board] regulations promulgated pursuant to this  
47 article. All such distances may be reduced one-half when the magazine,  
48 building, railroad or highway to be protected is adequately screened  
49 from the explosives factory or magazine by an efficient barricade as  
50 defined in subdivision seven of section four hundred fifty-one of this  
51 article.

52 § 8. The labor law is amended by adding a new section 457 to read as  
53 follows:

54 § 457. Relocation of magazines. 1. When any magazine is moved from the  
55 location for which it was certified according to section four hundred  
56 fifty-six of this article, and the magazine is or is intended to be used

1 for the storage of explosives and will be in the new location for more  
2 than twenty-four hours, the commissioner shall be notified as to the new  
3 location of the magazine. Such notification shall be made no later than  
4 one business day prior to the move. The notification shall contain all  
5 of the information required by the commissioner.

6 2. The provisions of subdivision one of this section shall not apply  
7 where the relocation has been ordered by police, fire or other author-  
8 ized emergency personnel, or where the continued storage in the current  
9 location would constitute a threat to life or property. In such cases  
10 the commissioner shall be notified as soon as practicable after the  
11 relocation but in no case more than two business days following such  
12 relocation.

13 3. When a magazine is abandoned, sold or removed from service, the  
14 certificate holder shall notify the commissioner no later than three  
15 business days from the date of such action and shall surrender the  
16 certificate to the commissioner.

17 § 9. Section 458 of the labor law, as added by chapter 809 of the laws  
18 of 1949, subdivisions 1 and 2 as amended by chapter 61 of the laws of  
19 1989, subdivision 3 as amended by section 10 of part A of chapter 57 of  
20 the laws of 2004, subdivision 4 as amended by chapter 164 of the laws of  
21 2003, subdivisions 5, 6, 7 and 9 as added and subdivisions 10 and 11 as  
22 renumbered by chapter 1022 of the laws of 1970 and subdivision 8 as  
23 added by chapter 150 of the laws of 1971, is amended to read as follows:

24 § 458. Licenses and certificates. 1. No person shall purchase, own,  
25 possess, transport or use explosives unless a license therefor shall  
26 have been issued as provided in this article.

27 Application for such a license shall be made to the commissioner on  
28 forms provided and shall contain such information as the commissioner  
29 may require. Where the commissioner finds that the applicant has  
30 complied with the requirements of this article and the rules promulgated  
31 hereunder, the commissioner shall issue [a] such license or renewal  
32 thereof which shall be valid for not less than one year from the date of  
33 issuance. Such application and each renewal thereof shall be accompanied  
34 by a non-refundable fee of not less than fifty dollars [non-refundable]  
35 to be payable to the commissioner.

36 2. No person shall manufacture, deal in, sell, give, test, or dispose  
37 of explosives unless a license therefor shall have been issued to such  
38 person for that purpose by the commissioner as provided in this article,  
39 nor shall any person sell, give, test, or dispose of explosives to, or  
40 manufacture explosives for any person who does not hold a license as  
41 provided by subdivision one of this section.

42 Application for such a license[, which shall be renewed annually,]  
43 shall be made to the commissioner on forms provided and shall contain  
44 such information as the commissioner may require. The commissioner,  
45 after investigation of the application, shall issue a license or renewal  
46 thereof, which shall be valid for not less than one year from the date  
47 of issuance, where the commissioner finds that the applicant has  
48 complied with the requirements of this article and the rules promulgated  
49 hereunder. Each application for such a license, or for its renewal,  
50 shall be accompanied by a fee of not less than one hundred dollars non-  
51 refundable to be payable to the commissioner.

52 3. No person shall keep or store explosives unless a certificate  
53 therefor shall have been issued by the commissioner as [herein]  
54 provided[, but this requirement shall not apply to the storage at any  
55 one time by farmers of two hundred pounds or less of blasting explosives  
56 for agricultural purposes] in this section.

1 Application for such a certificate shall be made to the commissioner  
2 on forms provided and shall contain such information as the commissioner  
3 may require. The commissioner, where it is found that the applicant has  
4 complied with the requirements of this article, [and], the rules promul-  
5 gated hereunder and all other applicable sections of this chapter and  
6 regulations promulgated by the commissioner, shall issue a certificate  
7 or a renewal thereof, which shall be valid for not less than one year  
8 from the date of issuance. In addition to any other causes for revoca-  
9 tion of a certificate hereinafter provided, the commissioner may revoke  
10 or modify such certificate because of any change in the conditions under  
11 which it was granted, or for failure to pay the [annual] required fee  
12 [hereinafter provided]. The owner or user of a magazine shall [annually]  
13 pay to the commissioner [in advance] a fee[, subject to the discretion  
14 of the commissioner and] of not less than fifty dollars, which shall be  
15 proportioned according to the quantity and type of explosives authorized  
16 by the certificate to be stored in the magazine.

17 4. An application for a license or a certificate pursuant to [subdivi-  
18 sion one, two or three of] this section [shall be sworn to under oath  
19 and] shall contain information sufficient to identify the applicant, and  
20 the purpose for which and the place where the explosives are to be used,  
21 manufactured, dealt in, given, disposed of or stored, as the case may  
22 be, and to demonstrate the eligibility of such applicant for the license  
23 or certificate requested. The commissioner may require that the applica-  
24 tion include, among other things, photographs, fingerprints and personal  
25 references. Such fingerprints shall be submitted to the division of  
26 criminal justice services for a state criminal history record check, as  
27 defined in subdivision one of section three thousand thirty-five of the  
28 education law, and may be submitted to the federal bureau of investi-  
29 gation for a national criminal history record check. An application for  
30 a license or certificate required to be filed with the department pursu-  
31 ant to this section shall be signed by the applicant and affirmed by him  
32 or her as true under penalty of perjury.

33 5. Before a license or certificate is issued, the commissioner shall  
34 investigate the eligibility of the applicant. The commissioner shall  
35 have the authority to request and receive from any department, division,  
36 board, bureau, commission or agency of the state or local government  
37 thereof such assistance and information as will enable [him] the commis-  
38 sioner to properly and effectively [to] carry out [his] the powers and  
39 duties under this article.

40 6. (a) The investigation prescribed in subdivision five of this  
41 section may include, but is not limited to the following:

42 (1) a personal interview of the applicant by a designated agent of the  
43 commissioner if the commissioner is unable to make a determination on  
44 the basis of the factors contained in the application;

45 (2) an examination as to the applicant's knowledge and ability with  
46 respect to basic safety precautions in the possession, handling, stor-  
47 age, manufacture and transportation of explosives, and for such purpose  
48 the commissioner may prescribe tests which the applicant shall be  
49 required to pass as a prerequisite to the issuance of the license or  
50 certificate. The test may be administered by any person or agency  
51 designated by the commissioner.

52 (b) The investigation prescribed in subdivision five of this section  
53 shall include a report from the New York state identification and intel-  
54 ligence system, and such other identification services of the state or  
55 federal government as may be necessary or appropriate for this purpose.

1 7. The commissioner may waive any of the procedures set forth in para-  
2 graph (b) of subdivision six [(a)] of this section with respect to any  
3 applicant [who has a license or certificate which was issued pursuant to  
4 this section at any time prior to March first, nineteen hundred seventy,  
5 and which was legally valid and effective on such date. The commissioner  
6 also may waive fingerprinting of an applicant who has a valid license  
7 for a pistol or revolver in accordance with section 400.00 of the penal  
8 law] for whom criminal history or other information has been obtained  
9 from any federal bureau or agency.

10 8. [Exceptions.] Except for the provisions of subdivision eleven of  
11 this section, this section shall not apply to smokeless powder.

12 9. Within thirty days after the issuance of a license or certificate  
13 under this section, the commissioner shall notify the chief executive  
14 officer of the municipality where the licensee resides or where the  
15 certificate holder has his or her place of business of the issuance of  
16 such license or certificate, and provide such officer with such other  
17 information pertaining thereto [as the board may from time to time  
18 prescribe] as the commissioner may prescribe.

19 10. Agencies of the United States, the state and its political and  
20 civil subdivisions which are subject to the requirements of this article  
21 and which, in the exercise of their functions, are required to purchase,  
22 own, store, use or transport explosives shall not be liable for the  
23 payment of any fee required by this section.

24 11. No explosives shall be sold, given or delivered to any [person]  
25 individual under eighteen years of age, whether such [person] individual  
26 is acting for himself, herself or for another person, nor shall any such  
27 [person] individual be eligible to obtain any license or certificate  
28 required under this section.

29 § 10. Section 459 of the labor law, as added by chapter 809 of the  
30 laws of 1949, subdivision 1 as amended by chapter 1022 of the laws of  
31 1970, is amended to read as follows:

32 § 459. Denial or revocation of license or certificate. 1. A license  
33 or certificate, [its] or the renewal [or continuation] thereof may be  
34 denied where the commissioner has probable reason to believe, based on  
35 knowledge or reliable information, or finds, after [due] investigation,  
36 that the applicant or any officer, servant, agent or employee of the  
37 applicant is not sufficiently reliable and experienced to be authorized  
38 to own, possess, store, transport, use, manufacture, deal in, sell,  
39 purchase or otherwise handle, as the case may be, explosives, lacks  
40 suitable facilities therefor, has been convicted of a [crime for which  
41 he has been sentenced to serve one or more years in prison] felony, is  
42 disloyal or hostile to the United States [or], has been confined as a  
43 patient or inmate in a public or private institution for the treatment  
44 of mental diseases or has been convicted under section four hundred  
45 eighty-four of the general business law. Whenever the commissioner  
46 denies an application for a license or certificate or the renewal there-  
47 of, [he shall,] within five days of such denial, [give] notice thereof  
48 and the reasons therefor shall be provided in writing to the applicant  
49 [personally or by mail to the address given in the application]. Such  
50 denial may be appealed to the commissioner who shall follow the proce-  
51 dure provided by subdivision [three] four of this section.

52 2. The commissioner may revoke any certificate or license on any  
53 ground or grounds authorized in subdivision one of this section for the  
54 denial of a license or certificate, or for a violation of the terms of  
55 such license or certificate, or for a violation of any provision of this  
56 article or [of the rules of the board] regulations promulgated

1 hereunder, or for non-compliance with any order issued by the commis-  
2 sioner within the time specified in such order.

3 [Where the] The commissioner may, where he or she has probable reason  
4 to believe, based on knowledge or reliable information, that a licensee  
5 or certificate holder is disloyal to the United States, [he may] summar-  
6 ily revoke the license or certificate or may[, in his discretion,] give  
7 such licensee or certificate holder notice and opportunity to be heard  
8 as provided in subdivision [three] four of this section. Revocation of a  
9 license or certificate for any other ground may be ordered only after  
10 giving written notice and an opportunity to be heard to the holder ther-  
11 eof. Such notice [may be given to the holder personally or by mail and]  
12 shall specify the ground or grounds on which it is proposed to revoke  
13 the license or certificate. When a license or certificate is revoked,  
14 the commissioner may direct the seizure and/or disposition of explosives  
15 held by such licensee or certificate holder. Upon revocation of a  
16 license or certificate by the commissioner, the holder thereof shall  
17 surrender [his] the license or certificate to the commissioner at once.

18 3. The commissioner may summarily suspend the license or certificate  
19 pending proceedings for revocation or other action, where he or she has  
20 reason to believe, based on knowledge or reliable information, that the  
21 continued possession of a license or certificate poses a danger to  
22 public health, safety or welfare, and incorporates a finding to that  
23 effect in his or her order. These proceedings shall be promptly insti-  
24 tuted and determined. Such suspension shall be effective on the date  
25 specified in the order or upon service of a certified copy of such order  
26 on the license or certificate holder, whichever shall be later.

27 [3. Hearings] 4. Unless, within fifteen days from the date of notice,  
28 the applicant for a license or certificate or the recipient of a notice  
29 stating that the commissioner proposes to revoke a license or certif-  
30 icate held by him or her, shall file a written answer with the commis-  
31 sioner denying the ground or grounds on which a license or certificate  
32 has been denied or not renewed or ground or grounds on which revocation  
33 of a license or certificate is sought, and shall request a hearing, the  
34 commissioner may make a final determination respecting the application  
35 for a license or certificate, or may revoke a license or certificate  
36 forthwith. If, within such fifteen days, the applicant, licensee or  
37 certificate holder files such answer and request for hearing, the  
38 commissioner shall schedule a hearing. The notice of hearing shall state  
39 the time, place, and subject of the hearing, and shall be mailed to the  
40 applicant, certificate holder or licensee at his or her last known  
41 address at least five days before the date of hearing. Hearings shall be  
42 held by the commissioner or his or her representative, and the appli-  
43 cant, certificate holder or licensee may appear in person or may be  
44 represented by an agent. After such hearing, the commissioner shall  
45 render [his] a decision in writing.

46 § 11. Section 460 of the labor law, as added by chapter 809 of the  
47 laws of 1949, is amended to read as follows:

48 § 460. Seizure, impounding, destruction or disposition of explosives.  
49 1. The commissioner is hereby authorized and empowered, without applica-  
50 tion to any court, to seize and impound any explosives found within this  
51 state, except in cities having a population of more than one million  
52 inhabitants, which are in apparent violation of any of the provisions of  
53 this article, [rules of the board] regulations promulgated hereunder or  
54 laws or regulations of the federal government, or which have been aban-  
55 doned or lost, or where the commissioner has reason to believe that  
56 public safety is endangered by such explosives. Such explosives may be



1 removed and transported by the commissioner and stored in magazines  
2 provided or obtained for that purpose by the state or by the commission-  
3 er.

4 2. The owner of such explosives may, within five days of such seizure,  
5 make written demand upon the commissioner for a hearing. Upon such  
6 demand, the commissioner shall give the owner written notice [in person  
7 or by mail,] of the time and place of such hearing to be held not less  
8 than ten days thereafter.

9 3. Where no hearing is demanded within the time herein prescribed or  
10 where, after hearing, the commissioner finds that there has been a  
11 violation of the provisions of this article, [rules of the board] regu-  
12 lations promulgated hereunder or laws or regulations of the federal  
13 government, or that public safety is endangered, [he] the commissioner  
14 may destroy or order the destruction of such explosives without liabil-  
15 ity, or direct such other disposition of the explosives [as he deems  
16 proper]. If the commissioner finds there has been no such violation and  
17 that public safety has not been endangered, [he shall return] such  
18 explosives shall be returned to the owner thereof.

19 4. Where such explosives have been abandoned or lost, and no claimant  
20 has appeared within thirty days, demanded the return of the explosives  
21 and proved, to the satisfaction of the commissioner, [his] the claim-  
22 ant's title to and right of possession of such explosives, the commis-  
23 sioner may destroy or direct the destruction thereof, or direct such  
24 other disposition thereof as [he deems] is deemed proper.

25 5. Any provision herein to the contrary notwithstanding, where, in the  
26 opinion of the commissioner, the manufacture, condition, storage, pack-  
27 ing or location of explosives is such that its continued existence or  
28 transportation is a danger to public safety, [he] the commissioner may,  
29 without hearing and without liability therefor to the owner thereof,  
30 seize and destroy or direct the seizure and destruction of such  
31 explosives.

32 § 12. Section 461 of the labor law, as added by chapter 809 of the  
33 laws of 1949, subdivision 1 as amended by chapter 150 of the laws of  
34 1971 and subdivision 3 as amended by chapter 1022 of the laws of 1970,  
35 is amended to read as follows:

36 § 461. Record and notice of sales, deliveries or gifts. 1. Every  
37 person selling, delivering [or], giving away [an explosive] or otherwise  
38 transferring or disposing of explosives shall keep at his or her princi-  
39 pal office or place of business within the state, a record of the trans-  
40 action, including the name or type and quantity of the explosive, such  
41 identification of the explosive as may be required by [rules of the  
42 board] the regulations promulgated pursuant to this article, the date of  
43 each sale, delivery [or], gift, transfer or disposition, the name and  
44 business address of the purchaser, donee, recipient or person to whom  
45 delivered, the number of the license [to own or possess explosives], if  
46 such license is required by section four hundred fifty-eight of this  
47 article, and the name and address of the person taking the explosives  
48 away. A report of all such transactions, when requested [by him], shall  
49 be submitted to the commissioner. Such record shall be open to  
50 inspection by the commissioner or by federal, state and local enforce-  
51 ment officers at all times. No person shall have in his or her  
52 possession any explosives unless he or she has a bill of sale or other  
53 evidence of title thereto.

54 2. Any provision in this article to the contrary notwithstanding, no  
55 person in a city having more than one million inhabitants shall ship or  
56 transport or cause to be shipped or transported explosives from such



1 city to any other place within the state, unless such person shall, at  
2 least twenty-four hours prior to such shipment, transmit to the commis-  
3 sioner a statement in writing giving the weight, name or brand and type  
4 of explosives, the name and address of the person to whom such  
5 explosives are to be sold, shipped, transported or delivered and the  
6 date thereof. Upon receipt of such statement, the commissioner shall  
7 provide immediate written notice of such shipment or transportation of  
8 explosives to the mayor of a city having more than one million inhabit-  
9 ants, or to the designee of the mayor. No person shall make any such  
10 shipment except to a holder of a license issued hereunder.

11 3. No person within the state shall purchase, receive or accept deliv-  
12 ery of explosives from any place outside the state, and no person shall  
13 bring explosives into the state from any place outside the state,  
14 unless, [in addition to holding a license issued hereunder, such person  
15 shall, not more than twenty-four hours thereafter, transmit to the  
16 commissioner by mail a written statement giving] he or she is in  
17 possession of a valid license issued by the commissioner. The licensee  
18 receiving the explosives shall maintain a record including the weight,  
19 name or brand and type of the explosives, the name and address of the  
20 shipper and the date of shipment, for a period of three years from the  
21 date of receipt or two years from the date of final disposition of the  
22 explosives whichever occurs last.

23 § 13. Section 462 of the labor law, as amended by chapter 190 of the  
24 laws of 1989, is amended to read as follows:

25 § 462. Rules and regulations. The commissioner may make rules supple-  
26 mental to this article as [he shall deem] deemed necessary or desirable  
27 to assure the public safety as well as to provide reasonable and  
28 adequate protection of the lives, health and safety of persons employed  
29 in the manufacture, storage, handling [and], use, purchase, sale, dispo-  
30 sition and ownership of explosives. The commissioner may prescribe such  
31 regulations as [he may deem] are deemed necessary and proper for the  
32 administration of this article. The commissioner shall by rule adopt  
33 the codes, standards and recommended practices promulgated by the most  
34 recent edition of National Fire Protection Association, 1123 and 1126  
35 Standards on Fireworks Displays and Use of Pyrotechnics Before a Proxi-  
36 mate Audience, in accordance with the provisions of this article and  
37 article twenty-eight-D of the general business law.

38 § 14. Section 463 of the labor law, as added by chapter 809 of the  
39 laws of 1949, is amended to read as follows:

40 § 463. Review. All questions of fact arising under this article shall  
41 be decided by the commissioner and there shall be no appeal from [his]  
42 such decision on any such question of fact[, but there shall be a right  
43 of review by the board of standards and appeals of any decision of the  
44 commissioner denying an application for a license or certificate, or  
45 denying the renewal thereof, or revoking a license or certificate, as  
46 provided in section one hundred ten, article three of the labor law].  
47 Upon the entry of an order issued under sections four hundred fifty-nine  
48 and four hundred sixty of this article, any party aggrieved thereby may  
49 commence a proceeding for review thereof pursuant to article seventy-  
50 eight of the civil practice law and rules within thirty days from the  
51 notice of the filing of the said order in the office of the commission-  
52 er. Said proceeding shall be commenced directly in the appellate divi-  
53 sion of the supreme court. Nothing in this section shall in any way  
54 limit, qualify or prevent the commissioner from destroying explosives as  
55 provided under section four hundred sixty of this article.

1 § 15. Section 464 of the labor law, as amended by chapter 307 of the  
2 laws of 1984, is amended to read as follows:

3 § 464. [Penalties] Costs and penalties. 1. If the commissioner  
4 directs the storage, destruction or other disposition of explosives  
5 pursuant to the provisions of section four hundred fifty-nine or four  
6 hundred sixty of this article, the commissioner may issue an order which  
7 shall set forth the costs of such storage, transportation, handling,  
8 destruction or other disposition and assess such costs against the owner  
9 of such explosives, which shall be in addition to any other penalties  
10 imposed.

11 2. (a) If the commissioner determines that any person has violated any  
12 provision of this article, section four hundred eighty-two of the gener-  
13 al business law relating to blasters and pyrotechnicians, or any rule or  
14 regulation promulgated thereunder, the commissioner may issue an order  
15 which shall describe the nature of the violation and assess such person  
16 a civil penalty of up to ten thousand dollars per violation per day  
17 until the violation is corrected. The penalty authorized pursuant to  
18 this paragraph shall be paid to the commissioner for deposit in the  
19 treasury of the state. In assessing the amount of the penalty, the  
20 commissioner shall give due consideration to the size of the person's  
21 business, the good faith effort of the person, the gravity of the  
22 violation, and the history of previous violations.

23 (b) Whenever the commissioner issues an order under this section  
24 against a person, the commissioner shall serve notice of the order by  
25 registered mail upon the person at his or her last known address. Within  
26 five days of service of the order, the person may make written demand  
27 upon the commissioner for a hearing whereupon the commissioner shall  
28 give such person written notice of the time and place of the hearing to  
29 be held not less than ten days thereafter.

30 (c) Upon the entry of an order issued following a hearing under this  
31 section, any party aggrieved by an order issued under this subdivision  
32 or subdivision one of this section may commence a proceeding for review  
33 thereof pursuant to article seventy-eight of the civil practice law and  
34 rules within thirty days from the notice of the filing of the said order  
35 in the office of the commissioner. Said proceeding shall be commenced  
36 directly in the Appellate Division of the Supreme Court.

37 (d) Provided that no proceeding for judicial review as provided for in  
38 this section shall then be pending and the time for initiation of such  
39 proceeding shall have expired, the commissioner may file with the county  
40 clerk of the county where the person resides or has a place of business,  
41 the order of the commissioner, containing the amount of the civil penal-  
42 ty. The filing of such order or decision shall have the full force and  
43 effect of a judgment duly docketed in the office of such clerk, the  
44 order or decision may be enforced by and in the name of the commissioner  
45 in the same manner, and with like effect, as that prescribed by the  
46 civil practice law and rules for the enforcement of a money judgment.

47 (e) A civil penalty provided for in this subdivision shall be in addi-  
48 tion to and may be imposed concurrently with any other penalty or remedy  
49 provided for in this article.

50 3. Any person violating any provision of this article, or any rule or  
51 regulation made hereunder, shall be guilty of a class E felony;  
52 provided, however, that any person who possesses an explosive without  
53 being duly licensed or otherwise authorized to do so under the  
54 provisions of this article shall be guilty of a class D felony. Whenev-  
55 er, as a result of a plea bargaining agreement the charge is reduced to  
56 a lesser offense, such offense may, in addition to any term of imprison-



1 ment prescribed by such offense, be punishable by a fine not to exceed  
2 twenty-five hundred dollars.

3 § 16. Section 480 of the general business law, as added by chapter 754  
4 of the laws of 1975, is amended to read as follows:

5 § 480. Legislative findings. The legislature hereby finds that the use  
6 of lasers and radioactive materials, the operation of cranes [and], the  
7 detonation of explosives, and the preparation and firing of pyrotechnics  
8 involve such elements of potential danger to the lives, health and safe-  
9 ty of the citizens of this state and to their property that special  
10 regulations are necessary to insure that only persons of proper ability  
11 and experience shall engage in such uses and operations.

12 The legislature hereby declares that this article shall be deemed an  
13 exercise of the police power of this state for the protection of the  
14 lives, health and safety of citizens in this state and of their proper-  
15 ty.

16 § 17. Section 481 of the general business law, as added by chapter  
17 754 of the laws of 1975, subdivision 3 as amended by chapter 569 of the  
18 laws of 1982 and subdivision 5 as amended by section 1 of part B of  
19 chapter 58 of the laws of 2006, is amended to read as follows:

20 § 481. Definitions. As used in this article:

21 1. "Laser" means light amplification by simulated emission of radi-  
22 ation.

23 2. "Radioactive material" means any material in any form that emits  
24 ionizing radiation spontaneously. "Radiation equipment" means any equip-  
25 ment or device which can emit ionizing or non-ionizing radiation.

26 3. "Crane" includes but is not limited to cranes and equipment of the  
27 following types: a mobile, carrier-mounted, power-operated hoisting  
28 machine utilizing a power-operated boom which moves laterally by rota-  
29 tion of the machine on the carrier, tower cranes, hydraulic cranes and  
30 power-operated derricks; provided, however, that "crane" shall not  
31 include public utility company line trucks used by a public utility  
32 company in the construction and maintenance of its generation, trans-  
33 mission and distribution facilities.

34 4. "Blaster" means a person who performs the act of preparation for  
35 detonation and the detonation of an explosive.

36 5. "Pyrotechnician" means a person who performs the preparation for  
37 and the firing of pyrotechnics, as defined in article sixteen of the  
38 labor law.

39 6. "Commissioner" means the commissioner of labor of the state of New  
40 York, except that any reference to the commissioner with respect to  
41 radioactive material, as defined in this article, or radiation equip-  
42 ment, as defined in this article, shall be a reference to the commis-  
43 sioner of health of the state of New York.

44 § 18. Section 482 of the general business law, as amended by section 2  
45 of part B of chapter 58 of the laws of 2006, is amended to read as  
46 follows:

47 § 482. Licensing and registration. 1. No individual shall use lasers,  
48 operate a crane [or], act as a blaster or as a pyrotechnician without  
49 holding a valid certificate of competence issued by the commissioner of  
50 labor.

51 2. No person shall possess or use any radioactive material without a  
52 valid license issued by the commissioner of health. Every installation  
53 and mobile source consisting of radiation equipment shall be registered  
54 with the commissioner of health.

55 3. No employer, contractor or agent thereof shall knowingly permit any  
56 individual to use lasers, operate a crane or act as a blaster or as a

1 pyrotechnician without holding a valid certificate of competence issued  
2 by the commissioner of labor.

3 § 19. Paragraph a of subdivision 1 and subdivision 2 of section 483 of  
4 the general business law, paragraph a of subdivision 1 as amended by  
5 section 3 of part B of chapter 58 of the laws of 2006, subdivision 2 as  
6 added by chapter 754 of the laws of 1975, are amended to read as  
7 follows:

8 a. The commissioner of labor is hereby authorized and directed to  
9 prescribe such rules and regulations as may be necessary and proper for  
10 the administration and enforcement of this article with respect to  
11 lasers, crane operators [and], blasters and pyrotechnicians.

12 2. Such regulations may provide for examinations, categories of  
13 certificates, licenses, or registrations, age and experience require-  
14 ments, payment of fees, and may also provide for such limitations and  
15 exemptions as the commissioner finds necessary and proper. In the case  
16 of blasters and pyrotechnicians, such regulations may require finger-  
17 printing, and in the case of users of radioactive material, such regu-  
18 lations may require the posting of a bond or other security.

19 § 20. Section 484 of the general business law, as added by chapter 754  
20 of the laws of 1975, subdivision 1 as amended by section 4 of part B of  
21 chapter 58 of the laws of 2006 and subdivision 2 as amended and subdivi-  
22 sion 3 as added by chapter 569 of the laws of 1982, is amended to read  
23 as follows:

24 § 484. Enforcement. 1. a. For the purpose of administering and enforc-  
25 ing the provisions of this article with respect to lasers, cranes [and],  
26 blasters and pyrotechnicians, the commissioner of labor shall have and  
27 may use all of the powers conferred upon him or her by the labor law, in  
28 addition to the powers conferred herein.

29 b. For the purpose of administering and enforcing the provisions of  
30 this article with respect to radioactive material and radiation equip-  
31 ment the commissioner of health shall have and may use all of the powers  
32 conferred upon him or her by the public health law, in addition to the  
33 powers conferred in this article.

34 2. [A violation of] Any person who violates any provision of this  
35 article or of any rule or regulation of the commissioner promulgated  
36 hereunder or of any rule or regulation promulgated pursuant to paragraph  
37 b of subdivision two of section four hundred eighty-five of this article  
38 shall be guilty of a misdemeanor, and upon conviction shall be punished,  
39 by a fine of not more than one thousand dollars; for a second offense by  
40 a fine of not less than one thousand nor more than three thousand  
41 dollars, or by imprisonment for not more than one year or by both such  
42 fine and imprisonment; for a subsequent offense by a fine of not less  
43 than three thousand dollars, or by imprisonment for not more than one  
44 year, or by both such fine and imprisonment.

45 3. Where the employer, contractor or agent thereof permitting a  
46 violation of any provision of this article or of any rule or regulation  
47 of the commissioner promulgated hereunder or of any rule or regulation  
48 promulgated pursuant to paragraph b of subdivision two of section four  
49 hundred eighty-five of this article shall be a corporation, then in  
50 addition to the corporation, the officer or agent of such corporation  
51 who knowingly permits the corporation to violate such provisions is  
52 guilty of a misdemeanor; and upon conviction thereof shall be punished  
53 for a first offense by a fine of not more than one [hundred] thousand  
54 dollars; for a second offense by a fine of not less than one [hundred]  
55 thousand nor more than [five hundred] three thousand dollars, or by  
56 imprisonment for not more than [thirty days] one year or by both such

1 fine and imprisonment; for a subsequent offense by a fine of not less  
2 than three [hundred] thousand dollars or by imprisonment for not more  
3 than [sixty days] one year, or by both such fine and imprisonment.

4 § 21. Subdivisions 2, 3, 3-a and 4 of section 405.00 of the penal law,  
5 subdivision 3-a as added by chapter 151 of the laws of 2002, are amended  
6 to read as follows:

7 2. Permits for [public] fireworks displays. Notwithstanding the  
8 provisions of section 270.00 of this chapter, the permit authority of a  
9 state park, county park, city, village or town may [upon application in  
10 writing,] grant a permit for the [public] display of fireworks [by] to  
11 municipalities, fair associations, amusement parks, persons, or organ-  
12 izations of individuals that submit an application in writing. The  
13 application for such permit shall set forth:

14 (a) The name of the body sponsoring the display and the names of the  
15 persons actually to be in charge of the firing of the display who shall  
16 possess a valid certificate of competence as a pyrotechnician as  
17 required under the general business law and article sixteen of the labor  
18 law. The permit application shall further contain a verified statement  
19 from the applicant identifying the individuals who are authorized to  
20 fire the display including their certificate numbers, and that such  
21 individuals possess a valid certificate of competence as a pyrotechni-  
22 cian.

23 (b) The date and time of day at which the display is to be held.

24 (c) The exact location planned for the display.

25 (d) [The age, experience and physical characteristics of the persons  
26 who are to do the actual discharging of the fireworks.

27 (e) The number and kind of fireworks to be discharged.

28 [(f)] (e) The manner and place of storage of such fireworks prior to  
29 the display.

30 [(g)] (f) A diagram of the grounds on which the display is to be held  
31 showing the point at which the fireworks are to be discharged, the  
32 location of all buildings, highways and other lines of communication,  
33 the lines behind which the audience will be restrained and the location  
34 of all nearby trees, telegraph or telephone lines or other overhead  
35 obstructions.

36 [(h)] (g) Such other information as the permit authority may deem  
37 necessary to protect persons or property.

38 3. Applications for permits. All applications for permits for the  
39 [public] display of fireworks shall be made at least five days in  
40 advance of the date of the display and the permit shall contain  
41 provisions that the actual point at which the fireworks are to be fired  
42 [shall be at least two hundred feet from the nearest permanent building,  
43 public highway or railroad or other means of travel and at least fifty  
44 feet from the nearest above ground telephone or telegraph line, tree or  
45 other overhead obstruction, that the audience at such display shall be  
46 restrained behind lines at least one hundred and fifty feet from the  
47 point at which the fireworks are discharged and only persons in active  
48 charge of the display shall be allowed inside these lines, that all  
49 fireworks that fire a projectile shall be so set up that the projectile  
50 will go into the air as nearby as possible in a vertical direction,  
51 unless such fireworks are to be fired from the shore of a lake or other  
52 large body of water, when they may be directed in such manner that the  
53 falling residue from the deflagration will fall into such lake or body  
54 of water, that any fireworks that remain unfired after the display is  
55 concluded shall be immediately disposed of in a way safe for the partic-  
56 ular type of fireworks remaining, that no fireworks display shall be

1 held during any wind storm in which the wind reaches a velocity of more  
2 than thirty miles per hour,] be in accordance with the rules promulgated  
3 by the commissioner of labor pursuant to section four hundred sixty-two  
4 of the labor law and that all the persons in actual charge of firing the  
5 fireworks shall be over the age of eighteen years, competent and phys-  
6 ically fit for the task, that there shall be at least two such operators  
7 constantly on duty during the discharge and that at least two [sodaacid  
8 or other] approved type fire extinguishers [of at least two and one-half  
9 gallons capacity each] shall be kept at as widely separated points as  
10 possible within the actual area of the display. The legislative body of  
11 a state park, county park, city, village or town may provide for  
12 approval of such permit by the head of the police or fire department or  
13 both where there are such departments. No permit granted and issued  
14 hereunder shall be transferable. After such permit shall have been  
15 granted, sales, possession, use and distribution of fireworks for such  
16 display shall be lawful solely therefor.

17 3-a. Notwithstanding the provisions of subdivision three of this  
18 section, no permit may be issued to conduct a [public] display of fire-  
19 works upon any property where the boundary line of such property is less  
20 than five hundred yards from the boundary line of any property which is  
21 owned, leased or operated by any breeder as defined in subdivision four  
22 of section [two hundred forty-four] two hundred fifty-one of the racing,  
23 pari-mutuel wagering and breeding law.

24 4. Bonds. Before granting and issuing a permit for a [public] display  
25 of fireworks as herein provided, the permit authority shall require an  
26 adequate bond from the applicant therefor, unless it is a state park,  
27 county park, city, village or town, [or from the person to whom a  
28 contract for such display shall be awarded,] in a sum to be fixed by the  
29 permit authority, which, however, shall not be less than [five thousand]  
30 one million dollars, conditioned for the payment of all damages, which  
31 may be caused to a person or persons or to property, by reason of the  
32 display so permitted and arising from any acts of the permittee, his  
33 agents, employees, contractors or subcontractors. Such bond shall run to  
34 the state park, county park, city, village or town in which the permit  
35 is granted and issued and shall be for the use and benefit of any person  
36 or persons or any owner or owners of any property so injured or damaged,  
37 and such person or persons or such owner or owners are hereby authorized  
38 to maintain an action thereon, which right of action also shall accrue  
39 to the heirs, executors, administrators, successors or assigns of such  
40 person or persons or such owner or owners. The permit authority may  
41 accept, in lieu of such bond, an indemnity insurance policy with liabil-  
42 ity coverage and indemnity protection equivalent to the terms and condi-  
43 tions upon which such bond is predicated and for the purposes [herein]  
44 provided in this section.

45 § 22. This act shall take effect immediately; provided that:

46 1. section eight of this act shall take effect on the thirtieth day  
47 after it shall have become a law, and sections eighteen and twenty-one  
48 of this act shall take effect on the one hundred eightieth day after it  
49 shall have become a law;

50 2. all licenses and certificates issued pursuant to article 16 of the  
51 labor law and article 28-D of the general business law prior to the  
52 effective date of this act shall remain in full force and effect until  
53 such licenses and certificates expire; and

54 3. sections fifteen and twenty of this act shall apply to offenses  
55 committed on or after the effective date of such sections.

1

## PART DD

2 Section 1. Section 484 of the general business law is amended by  
3 adding a new subdivision 4 to read as follows:

4 4. (a) Any person who operates a crane without a certificate of compe-  
5 tence issued by the commissioner of labor as required by section four  
6 hundred eighty-two of this article shall be deemed to have violated this  
7 article. The commissioner may impose a civil penalty upon such person of  
8 no more than one thousand dollars for the initial violation, no more  
9 than two thousand dollars for the second violation, and no more than  
10 three thousand dollars for a third or subsequent violation.

11 (b) Any employer, contractor or agent thereof who willfully permits a  
12 person to operate a crane without a certificate of competence issued by  
13 the commissioner of labor as required by section four hundred eighty-two  
14 of this article shall be deemed to have violated this article. The  
15 commissioner may impose a civil penalty upon such employer, contractor,  
16 or agent of no more than five thousand dollars for the initial  
17 violation, and no more than ten thousand dollars for a second or subse-  
18 quent violation.

19 (c) When two final determinations have been rendered under this  
20 section against a person who operates a crane in violation of this arti-  
21 cle, such person shall be ineligible to apply for a certificate of  
22 competence from the commissioner of labor for a period of two years from  
23 the date of the second final determination.

24 § 2. This act shall take effect immediately and shall apply to  
25 violations occurring on and after such effective date.

26 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
27 sion, section or part of this act shall be adjudged by any court of  
28 competent jurisdiction to be invalid, such judgment shall not affect,  
29 impair, or invalidate the remainder thereof, but shall be confined in  
30 its operation to the clause, sentence, paragraph, subdivision, section  
31 or part thereof directly involved in the controversy in which such judg-  
32 ment shall have been rendered. It is hereby declared to be the intent of  
33 the legislature that this act would have been enacted even if such  
34 invalid provisions had not been included herein.

35 § 3. This act shall take effect immediately provided, however, that  
36 the applicable effective date of Parts A through DD of this act shall be  
37 as specifically set forth in the last section of such Parts.

