S T A T E O F N E W Y O R K

S. 57 A. 157

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2009

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:

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

PART A

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

S 101-B. PAPERWORK REDUCTION. 1. IT SHALL BE THE DUTY OF THE COMMISSIONER TO REDUCE THE PAPERWORK BURDEN ON SCHOOL DISTRICTS BY ELIMINATING AND AVOIDING DUPLICATIVE REPORTING REQUIREMENTS WHEREVER POSSIBLE, AND BY CONSOLIDATING PLANS, REPORTS AND APPLICATIONS, WHERE POSSIBLE AND CONSISTENT WITH LAW. THE COMMISSIONER SHALL CONFORM STATE REPORTING AND PLANNING REQUIREMENTS TO FEDERAL REQUIREMENTS, WHERE POSSIBLE, AND SHALL SEEK FEDERAL WAIVERS WHERE NEEDED TO ALIGN STATE AND FEDERAL REQUIREMENTS. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO EXCUSE THE COMMISSIONER OR THE BOARD OF REGENTS FROM, OR OTHERWISE LIMIT, REPORTING OF INFORMATION BY THE DEPARTMENT TO THE LEGISLATURE OR THE GOVERNOR UNDER ANY OTHER LAW.

2. THE COMMISSIONER SHALL REDUCE THE NUMBER OF PLANS, REPORTS AND APPLICATIONS REQUIRED BY LAW, OF SCHOOL DISTRICTS BY ESTABLISHING STREAMLINED AND UNIFIED ELECTRONIC DATA COLLECTION SYSTEMS WHICH ELIMINATE REDUNDANT REPORTING, CONNECT PLANNING AND REPORTING, AND WHICH FOCUS ON COLLECTING DATA AND REQUIRING PLANNING WHEN NECESSARY TO ASSURE FISCAL AND PROGRAMMATIC ACCOUNTABILITY AND COMPLIANCE WITH LAW, TO FOSTER CONTINUOUS SCHOOL IMPROVEMENT AND CLOSE THE GAP BETWEEN ACTUAL AND DESIRED STUDENT ACHIEVEMENT, AND TO ASSURE SCHOOLS PROVIDE A SAFE AND SECURE ENVIRONMENT AND/OR PROTECT THE HEALTH AND SAFETY OF STUDENTS AND STAFF. SUCH SYSTEMS SHALL LINK PLANNING AND REPORTING TO THE STATE SYSTEM OF ACCOUNTABILITY REQUIRED UNDER FEDERAL LAW, PROVIDING FOR AN AUDIT BASED ASSESSMENT OF RISK OF POOR STUDENT PERFORMANCE, POOR FISCAL PERFORMANCE OR IMPROPER MANAGEMENT OR USE OF PUBLIC FUNDS. THE COMMISSIONER SHALL COLLABORATE WITH SELECTED SCHOOL DISTRICTS TO PROMOTE BETTER USE OF REQUIRED PLANNING AND REPORTING AND SHALL ASSURE THAT REPORTING REQUIREMENTS INCLUDE DATA WHICH CAN BE USED TO IDENTIFY BEST PRACTICES. THE COMMISSIONER SHALL PROVIDE FOR THE SHARING OF EFFECTIVE PLANNING PRACTICES WITH SCHOOL DISTRICTS AND, TO THE EXTENT PRACTICABLE, PROVIDE TECHNICAL ASSISTANCE ON THE USE OF DATA FOR PLANNING, INVOLVE BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AND INSTITUTIONS OF HIGHER EDUCATION IN PROVIDING TECHNICAL ASSISTANCE ON THE USE OF DATA FOR STRATEGIC PLANNING TO SUPERINTENDENTS OF SCHOOLS, SCHOOL BUSINESS OFFICIALS AND TEACHERS, INVOLVE RESEARCHERS IN DATA ANALYSIS AND EVALUATION, AND, TO THE EXTENT PRACTICABLE, PROVIDE TECHNICAL ASSISTANCE OR TRAINING ON THE USE OF DATA IN PLANNING TO SCHOOL BOARD MEMBERS.

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

(VII) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, A SCHOOL DISTRICT THAT SUBMITTED A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR SHALL SUBMIT A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AS PROVIDED HEREIN, UNLESS ALL SCHOOLS IN THE DISTRICT ACHIEVED GOOD STANDING FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR. THE AMOUNT TO BE EXPENDED ON APPROVED PROGRAMS AND ACTIVITIES IN SUCH CONTRACT FOR EXCELLENCE SHALL BE NOT LESS THAN THE PRODUCT OF THE AMOUNT APPROVED BY THE COMMISSIONER IN THE DISTRICT'S CONTRACT FOR EXCELLENCE FOR THE BASE YEAR, MULTIPLIED BY THE DISTRICT'S DEFICIT REDUCTION ASSESSMENT PERCENTAGE. FOR PURPOSES OF THIS SUBPARAGRAPH, THE "DEFICIT REDUCTION ASSESSMENT PERCENTAGE" SHALL BE CALCULATED AS THE SUM OF ONE PLUS THE QUOTIENT OF THE SCHOOL DISTRICT'S DEFICIT REDUCTION ASSESSMENT AS COMPUTED PURSUANT TO PARAGRAPH C OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED NINE-A OF THIS CHAPTER DIVIDED BY THE TOTAL AID FOR ADJUSTMENT COMPUTED PURSUANT TO CLAUSE (I) OF SUBPARAGRAPH THREE

OF PARAGRAPH C OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED NINE-A OF THIS CHAPTER.

(VIII) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, A SCHOOL DISTRICT THAT SUBMITTED A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR SHALL SUBMIT A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEAR AS PROVIDED HEREIN, UNLESS ALL SCHOOLS IN THE DISTRICT ACHIEVED GOOD STANDING FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR. THE AMOUNT TO BE EXPENDED ON APPROVED PROGRAMS AND ACTIVITIES IN SUCH CONTRACT FOR EXCELLENCE SHALL BE NOT LESS THAN THE AMOUNT APPROVED BY THE COMMISSIONER IN THE DISTRICT'S CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR.

(IX) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, A SCHOOL DISTRICT THAT WAS REQUIRED TO SUBMIT A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND SEVEN--TWO THOUSAND EIGHT SCHOOL YEAR BUT DID NOT FULLY EXPEND ALL OF ITS TWO THOUSAND SEVEN--TWO THOUSAND EIGHT FOUNDATION AID SUBJECT TO THE CONTRACT FOR EXCELLENCE RESTRICTIONS DURING THE TWO THOUSAND SEVEN--TWO THOUSAND EIGHT SCHOOL YEAR MAY RE-ALLOCATE AND EXPEND SUCH UNEXPENDED FUNDS DURING THE TWO THOUSAND EIGHT--TWO THOUSAND NINE AND TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEARS FOR ALLOWABLE CONTRACT FOR EXCELLENCE PROGRAMS AND ACTIVITIES AS DEFINED IN SUBDIVISION THREE OF THIS SECTION IN A MANNER PRESCRIBED BY THE COMMISSIONER. FOR PURPOSES OF DETERMINING MAINTENANCE OF EFFORT PURSUANT TO SUBPARAGRAPH (VI) OF THIS PARAGRAPH FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR, FUNDS EXPENDED PURSUANT TO THIS SUBPARAGRAPH SHALL BE INCLUDED IN THE TOTAL BUDGETED AMOUNT APPROVED BY THE COMMISSIONER IN THE DISTRICT'S CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND SEVEN--TWO THOUSAND EIGHT SCHOOL YEAR; PROVIDED THAT SUCH AMOUNT SHALL NOT BE COUNTED MORE THAN ONCE IN DETERMINING MAINTENANCE OF EFFORT FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR OR THEREAFTER.

S 3. Intentionally Omitted.

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

1. State aid shall be provided for up to fifty percent of the total project approved costs, excluding feasibility studies, plans or similar activities, for projects for the acquisition, construction, renovation or rehabilitation, including leasehold improvements, of buildings of public libraries and library systems chartered by the regents of the state of New York or established by act of the legislature subject to the limitations provided in subdivision four of this section and upon approval by the commissioner. [For purposes of this subdivision, an amount of eight hundred thousand dollars shall be available for each calendar year] PROVIDED HOWEVER THAT THE STATE LIABILITY FOR AID PAID PURSUANT TO THIS SECTION SHALL BE LIMITED TO FUNDS APPROPRIATED FOR SUCH PURPOSE. Aid shall be provided on approved expenses incurred during the period commencing July first and ending June thirtieth for up to three years, or until the project is completed, whichever occurs first. Fifty percent of such aid shall be payable to each system or library upon approval of the application. Forty percent of such aid shall be payable in the next state fiscal year. The remaining ten percent shall be payable upon project completion.

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

S 308-A. SPECIAL PROVISIONS; MANDATES. 1. AS USED IN THIS SECTION, "MANDATE" MEANS (A) ANY STATE LAW, RULE OR REGULATION WHICH CREATES A NEW PROGRAM OR REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A SCHOOL DISTRICT, ORGANIZED EITHER BY SPECIAL LAWS OR PURSUANT TO THE PROVISIONS OF A GENERAL LAW, IS REQUIRED TO PROVIDE, OR

(B) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL DISTRICT IS REQUIRED TO PROVIDE.

2. IN THE EVENT THAT A MANDATE WHICH IMPOSES A COST UPON A SCHOOL DISTRICT IS CREATED AFTER THE ADOPTION OF A SCHOOL BUDGET, SUCH MANDATE SHALL NOT BE IMPLEMENTED UNTIL NO SOONER THAN THE FOLLOWING YEAR FOR WHICH SUCH SCHOOL BUDGET WAS ADOPTED.

3. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, SUCH A MANDATE CAN BE IMPOSED IF:

(A) THE MANDATE IS PROVIDED AT THE OPTION OF THE SCHOOL DISTRICT UNDER A LAW, REGULATION, RULE OR ORDER THAT IS PERMISSIVE RATHER THAN MANDATORY;

(B) THE MANDATE IS REQUIRED BY, OR ARISES FROM, AN EXECUTIVE ORDER OF THE GOVERNOR EXERCISING HIS OR HER EMERGENCY POWERS; OR

(C) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLEMENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR EXECUTIVE ORDER IMPOSES COSTS WHICH EXCEED THE COSTS MANDATED BY THE FEDERAL GOVERNMENT.

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

2. A software program, for the purposes of this article shall mean (A) a computer program which a pupil is required to use as a learning aid in a particular class in the school the pupil legally attends, OR (B) FOR EXPENSES INCURRED AFTER JULY FIRST, TWO THOUSAND NINE, ANY CONTENT-BASED INSTRUCTIONAL MATERIALS IN AN ELECTRONIC FORMAT THAT ARE ALIGNED WITH STATE STANDARDS WHICH ARE ACCESSED OR DELIVERED THROUGH THE INTERNET BASED ON A SUBSCRIPTION MODEL. SUCH ELECTRONIC FORMAT MATERIALS MAY INCLUDE A VARIETY OF MEDIA ASSETS AND LEARNING TOOLS, INCLUDING VIDEO, AUDIO, IMAGES, TEACHER GUIDES, ASSESSMENTS, AND STUDENT ACCESS CAPABILITIES AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMISSIONER.

S 7. Section 805 of the education law is REPEALED.

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

2. The regents shall determine the subjects to be included in such courses of instruction in highway safety and traffic regulation including bicycle safety, and the period of instruction in each of the grades in such subjects. [They shall adopt rules providing for attendance upon such instruction and for such other matters as are required for carrying into effect the teaching of the courses of instruction prescribed by this section. The commissioner of education shall be responsible for the enforcement of such section and shall cause to be inspected and supervise the instruction to be given in such subjects. The commissioner may, in his discretion, cause all or a portion of the public school money to be apportioned to a district or city to be withheld for failure of the school authorities of such district or city to provide instruction in such courses and to compel attendance upon such instruction, as herein prescribed, and for a noncompliance with the rules of the regents adopted as herein provided.]

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

5. By [January] APRIL first of each year, the commissioner shall report to the governor, the legislature and the regents concerning the prevalence of violence and disruptive incidents in the public schools[, and the effectiveness of school programs undertaken to reduce violence and assure the safety and security of students and school personnel]. The report shall summarize the information available from the incident reporting system, and [identify specifically the schools and school districts with the least and greatest incidence of violent and disruptive incidents, and the least and most improvement since the previous year or years] COMPARE THE INCIDENCE OF VIOLENT AND DISRUPTIVE INCIDENTS OF SCHOOLS AND SCHOOL DISTRICTS AND BOARDS WITH OTHER SCHOOLS AND SCHOOL DISTRICTS AND BOARDS BASED ON SIMILARITY IN SIZE AND GRADE LEVELS AND OTHER CHARACTERISTICS, INCLUDING STUDENT NEED AND RESOURCES, AS DETERMINED BY THE COMMISSIONER. The report shall also, to the extent possible, relate the results available from the incident reporting system, together with such other analysis and information as the commissioner determines is appropriate, to the effectiveness of school violence measures undertaken by participating schools and school districts, including the school codes and school safety plans required by sections twenty-eight hundred one and twenty-eight hundred one-a of this article.

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

(4) The education department shall reimburse the school district in which such intermediate care facility is located for the full cost of all [nonfederally reimbursable] services, which shall, notwithstanding any inconsistent provision of law, include transportation services provided pursuant to a contract authorized by this paragraph. PROVIDED, HOWEVER, THAT NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, THAT NO REIMBURSEMENT SHALL BE PAYABLE PURSUANT TO THIS SUBPARAGRAPH FOR DUE PROCESS COSTS INCURRED ON OR AFTER JULY FIRST, TWO THOUSAND NINE. Such reimbursement shall be for the period from September first through June thirtieth, and state reimbursement for July and August programs shall be in accordance with subdivision one of section forty-four hundred eight of this chapter. The provisions of subdivision two of such section forty-four hundred eight shall apply to all July and August programs provided pursuant to this section.

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

5. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, A NONPUBLIC ELEMENTARY OR SECONDARY SCHOOL SHALL NOT BE REQUIRED TO TAKE ATTENDANCE MORE THAN ONCE A DAY OR TO HAVE THE ADMINISTRATOR IN CHARGE OF THE NONPUBLIC SCHOOL REVIEW ATTENDANCE RECORDS OF THE NONPUBLIC SCHOOL OR TO OTHERWISE COMPLY WITH THE REQUIREMENTS OF THE REGULATIONS OF THE COMMISSIONER RELATING TO COMPREHENSIVE ATTENDANCE POLICIES. THE COMMISSIONER SHALL REQUIRE NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS TO MAINTAIN RECORDS OF ATTENDANCE IN ACCORDANCE WITH THE STANDARDS AND PROCEDURES IN EFFECT FOR THE TWO THOUSAND TWO--TWO THOUSAND THREE SCHOOL YEAR.

S 10-b. Notwithstanding the provisions of chapter 507 of the laws of 1974 or any other provision of law to the contrary, for aid payable in the two thousand nine--two thousand ten school year and thereafter a nonpublic elementary or secondary school's entitlement for an apportionment for the actual cost of pupil attendance reporting pursuant to section 3 of chapter 507 of the laws of 1974 for expenses incurred in the 2003--2004 school year and thereafter shall be determined in accord-

ance with this section. The commissioner of education shall not be authorized to pay any claim for pupil attendance reporting expenses incurred prior to July 1, 2007 and the amounts paid prior to the effective date of this section shall be in full satisfaction of the state's obligation to reimburse nonpublic schools for actual costs incurred for pupil attendance reporting during such period and are hereby ratified, validated and confirmed. For pupil attendance reporting expenses incurred in the 2007--2008 school year and thereafter, the apportionment for pupil attendance reporting expenses shall be limited to reimbursement for the actual cost of expenses incurred to implement subdivision 5 of section 3211 of the education law, as added by section ten-a of this act.

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

(III) THE TOTAL FOUNDATION AID BASE FOR AID PAYABLE IN THE TWO THOUSAND SEVEN--TWO THOUSAND EIGHT SCHOOL YEAR AND THEREAFTER, AND FOR AID CALCULATIONS FOR SUBSEQUENT SCHOOL YEARS BASED ON AID PAYABLE IN SUCH SCHOOL YEARS, SHALL BE DEEMED FINAL AND NOT SUBJECT TO CHANGE ON OR AFTER JULY FIRST OF THE SCHOOL YEAR FOLLOWING THE LAST SCHOOL YEAR IN WHICH THE COMMISSIONER MAY LAST ACCEPT AND CERTIFY FOR PAYMENT ANY ADDITIONAL CLAIM FOR SUCH SCHOOL YEAR PURSUANT TO PARAGRAPH A OF SUBDIVISION FIVE OF SECTION THIRTY-SIX HUNDRED FOUR OF THIS ARTICLE.

S 12. Intentionally Omitted.

S 13. The opening paragraph, subparagraph 1 of paragraph a and paragraphs b and b-1 of subdivision 4 of section 3602 of the education law, as amended by section 14 of part B of chapter 57 of the laws of 2008, are amended to read as follows:

In addition to any other apportionment pursuant to this chapter, a school district, other than a special act school district as defined in subdivision eight of section four thousand one of this chapter, shall be eligible for total foundation aid equal to the product of total aidable foundation pupil units multiplied by the district's selected foundation aid, which shall be the greater of five hundred dollars ($500) or foundation formula aid, provided, however that for the two thousand seven--two thousand eight through [two thousand nine--two thousand ten] TWO THOUSAND EIGHT--TWO THOUSAND NINE AND TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE THROUGH TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN school years, no school district shall receive total foundation aid in excess of the sum of the total foundation aid base for aid payable in the two thousand seven--two thousand eight school year computed pursuant to subparagraph (i) of paragraph j of subdivision one of this section, plus the phase-in foundation increase computed pursuant to paragraph b of this subdivision, and provided further that total foundation aid shall not be less than the product of the total foundation aid base computed pursuant to paragraph j of subdivision one of this section and one hundred three percent, nor more than the product of such total foundation aid base and one hundred fifteen percent, AND PROVIDED FURTHER THAT FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN AND TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEARS, EACH SCHOOL DISTRICT SHALL RECEIVE TOTAL FOUNDATION AID IN THE AMOUNT SET FORTH FOR SUCH SCHOOL DISTRICT AS "FOUNDATION AID" UNDER THE HEADING "2008-09 BASE YEAR AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "BT112-1". Total aidable foundation pupil units shall be calculated pursuant to paragraph g of subdivision two of this section. For the purposes of calculating aid pursuant to this subdivision, aid for the

city school district of the city of New York shall be calculated on a citywide basis.

(1) The foundation amount shall reflect the average per pupil cost of general education instruction in successful school districts, as determined by a statistical analysis of the costs of special education and general education in successful school districts, provided that the foundation amount shall be adjusted annually to reflect the percentage increase in the consumer price index as computed pursuant to section two thousand twenty-two of this chapter, provided that for the two thousand eight--two thousand nine school year, for the purpose of such adjustment, the percentage increase in the consumer price index shall be deemed to be two and nine-tenths percent (0.029), and provided further that the foundation amount for the two thousand seven--two thousand eight school year shall be five thousand two hundred fifty-eight dollars, and provided further that for the two thousand seven--two thousand eight through [two thousand nine--two thousand ten] TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN school years, such foundation amount shall be further adjusted by the phase-in foundation percent established pursuant to paragraph b of this subdivision.

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

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

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

for the two thousand nine--two thousand ten school year, the phase-in foundation percent shall equal one hundred two and five tenths percent (1.025), the phase-in foundation increase factor shall equal [sixty-five] THIRTY-SEVEN AND ONE-HALF percent [(0.65)] (0.375), and the phase-in due-minimum percent shall equal twelve and fifty-five hundredths percent (0.1255);

FOR THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEAR, THE PHASE-IN FOUNDATION PERCENT SHALL EQUAL ONE HUNDRED TEN AND THIRTY-SEVEN HUNDREDTHS PERCENT (1.1037), THE PHASE-IN FOUNDATION INCREASE FACTOR SHALL EQUAL THIRTY-SEVEN AND ONE-HALF PERCENT (0.375), AND THE PHASE-IN DUE-MINIMUM PERCENT SHALL EQUAL TWELVE AND FIFTY-FIVE HUNDREDTHS PERCENT (0.1255);

FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, THE PHASE-IN FOUNDATION PERCENT SHALL EQUAL ONE HUNDRED SEVEN AND SIXTY-

EIGHT HUNDREDTHS PERCENT (1.0768), THE PHASE-IN FOUNDATION INCREASE FACTOR SHALL EQUAL FIFTY-THREE AND ONE-TENTH PERCENT (0.531), AND THE PHASE-IN DUE-MINIMUM PERCENT SHALL EQUAL TWELVE AND FIFTY-FIVE HUNDREDTHS PERCENT (0.1255);

FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR, THE PHASE-IN FOUNDATION PERCENT SHALL EQUAL ONE HUNDRED FIVE AND SIX HUNDREDTHS PERCENT (1.0506), THE PHASE-IN FOUNDATION INCREASE FACTOR SHALL EQUAL SIXTY-EIGHT AND SEVEN-TENTHS PERCENT (0.687), AND THE PHASE-IN DUE-MINIMUM PERCENT SHALL EQUAL TWELVE AND FIFTY-FIVE HUNDREDTHS PERCENT (0.1255);

FOR THE TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN SCHOOL YEAR, THE PHASE-IN FOUNDATION PERCENT SHALL EQUAL ONE HUNDRED TWO AND FIVE HUNDREDTHS PERCENT (1.0250), THE PHASE-IN FOUNDATION INCREASE FACTOR SHALL EQUAL EIGHTY-FOUR AND THREE-TENTHS PERCENT (0.843), AND THE PHASE-IN DUE-MINIMUM PERCENT SHALL EQUAL TWELVE AND FIFTY-FIVE HUNDREDTHS PERCENT (0.1255).

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

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

For the two thousand eight--two thousand nine school year, each school district shall be entitled to an apportionment equal to the product of fifteen percent and the additional apportionment computed pursuant to this subdivision for the two thousand seven--two thousand eight school year. FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN AND TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEARS, EACH SCHOOL DISTRICT SHALL BE ENTITLED TO AN APPORTIONMENT EQUAL TO THE AMOUNT SET FORTH FOR SUCH SCHOOL DISTRICT AS "SUPPLEMENTAL PUB EXCESS COST" UNDER THE HEADING "2008-09 BASE YEAR AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "BT112-1".

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

(ii) For any assumed unpaid principal or the equivalent amount in the case of a lease-purchase agreement or its equivalent, remaining as of the first day of July, two thousand two pursuant to subparagraph one of this paragraph, the commissioner shall establish a new assumed amortization commencing on such date for the unexpired term of the original assumed amortization as of such date. Such assumed amortization shall provide for equal semiannual payments of principal and interest based on the interest rate applied to the original amortization as established by the commissioner pursuant to subparagraph one of this paragraph. Provided, however, that, notwithstanding any provision of law to the contrary, for aid payable in the two thousand nine--two thousand ten school year and thereafter, the total [of] APPORTIONMENT FOR such current year approved expenditures for debt service shall not exceed the

ESTIMATED APPORTIONMENT AS COMPUTED BASED ON THE estimated current year approved expenditures for debt service on file with the commissioner as of the date upon which an electronic data file was created for the purposes of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter on November fifteenth of the base year, and the positive remainder, if any, of such [debt service or lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement that would be incurred during the current year based on an assumed amortization to be established by the commissioner pursuant to this subparagraph of the approved project costs to be financed] APPORTIONMENT less such estimated [current year approved expenditures for debt service on file with the commissioner as of the date upon which an electronic data file was created for the purposes of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter on November fifteenth of the base year] APPORTIONMENT shall not be AN APPORTIONMENT PAYABLE IN THE current year [approved expenditures for debt service], but shall be deemed to be AN APPORTIONMENT PAYABLE FOR debt service on new bonds and capital notes aidable in July following the current year as defined in clause (b) of subparagraph one of paragraph f of this subdivision. Such estimate shall be done in consultation with the commissioner.

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

(8) NOTWITHSTANDING ANY OTHER PROVISION OF THE LAW TO THE CONTRARY, WHERE, DURING THE PERIOD OF ASSUMED AMORTIZATION RELATING TO A PROJECT FOR THE CONSTRUCTION, ACQUISITION, RECONSTRUCTION, REHABILITATION OR IMPROVEMENT OF A SCHOOL BUILDING, THE SCHOOL BUILDING IS SOLD OR OWNERSHIP IS OTHERWISE TRANSFERRED TO AN ENTITY OTHER THAN THE SCHOOL DISTRICT OR CITY AND SUCH TRANSFER RESULTS IN THE BUILDING NO LONGER BEING USED AS A PUBLIC ELEMENTARY OR SECONDARY SCHOOL, THE COMMISSIONER SHALL RE-COMPUTE THE BUILDING AID, IF ANY, PAYABLE FOR SUCH PROJECT PURSUANT TO THIS SUBPARAGRAPH, EXCEPT TO THE EXTENT SUCH RE-COMPUTATION WOULD CONFLICT WITH THE PROVISIONS OF SECTION TWENTY-SEVEN HUNDRED NINETY-NINE-TT OF THE PUBLIC AUTHORITIES LAW. THE COMMISSIONER SHALL DEDUCT THE REVENUES RECEIVED BY THE SCHOOL DISTRICT OR CITY AS A RESULT OF SUCH SALE OR TRANSFER FROM THE APPROVED TOTAL PROJECT COST AND, BASED ON SUCH ADJUSTED PROJECT COST, ESTABLISH A NEW ASSUMED AMORTIZATION FOR THE REMAINING USEFUL LIFE OF THE PROJECT UNDER THE APPLICABLE PROVISIONS OF THIS PARAGRAPH.

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

b. District plans of service. Any school district receiving an additional apportionment pursuant to subdivision ten of this section for pupils in career education programs or a payment in lieu of such apportionment or having a public excess cost aid setaside pursuant to subdivision four of this section shall keep on file and make available for public inspection and review by the commissioner an acceptable plan of service describing the student outcomes expected from implementation of the proposed plan, provided that such plan may be incorporated into a school district's district-wide comprehensive plan. The plan of service [submitted by] OF a school district receiving an additional apportionment pursuant to this section for pupils with disabilities shall also describe how such district intends to ensure that all instructional materials to be used in the schools of such district will be made available in a usable alternative format for each student with a disability

and for each student who is a qualified individual with a disability, at the same time as such instructional materials are available to non-disabled students, provided that such plan may incorporate by reference the alternative format plans developed pursuant to subdivision twenty-nine-a of section sixteen hundred four, subdivision four-a of section seventeen hundred nine, subdivision seven-a of section twenty-five hundred three or subdivision seven-a of section twenty-five hundred fifty-four of this chapter. Such plans shall be in a form prescribed by the commissioner, and except as heretofore provided, shall have the content prescribed by the commissioner. The commissioner may, from time to time, require amendments of such plans as deemed to be necessary and appropriate to further the educational welfare of the pupils involved.

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

FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN AND TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEARS, EACH SCHOOL DISTRICT SHALL BE ENTITLED TO AN APPORTIONMENT EQUAL TO THE AMOUNT SET FORTH FOR SUCH SCHOOL DISTRICT AS "EDUCATION GRANTS, ACADEMIC EN" UNDER THE HEADING "2008-09 BASE YEAR AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "BT112-1", AND SUCH APPORTIONMENT SHALL BE DEEMED TO SATISFY THE STATE OBLIGATION TO PROVIDE AN APPORTIONMENT PURSUANT TO SUBDIVISION EIGHT OF SECTION THIRTY-SIX HUNDRED FORTY-ONE OF THIS ARTICLE.

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

Each school district shall be eligible to receive a high tax aid apportionment in the two thousand eight--two thousand nine school year, which shall equal the greater of (i) the sum of the tier 1 high tax aid apportionment, the tier 2 high tax aid apportionment and the tier 3 high tax aid apportionment or (ii) the product of the apportionment received by the school district pursuant to this subdivision in the two thousand seven--two thousand eight school year, multiplied by the due-minimum factor, which shall equal, for districts with an alternate pupil wealth ratio computed pursuant to paragraph b of subdivision three of this section that is less than two, seventy percent (0.70), and for all other districts, fifty percent (0.50). EACH SCHOOL DISTRICT SHALL BE ELIGIBLE TO RECEIVE A HIGH TAX AID APPORTIONMENT IN THE TWO THOUSAND NINE--TWO THOUSAND TEN AND TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEARS IN THE AMOUNT SET FORTH FOR SUCH SCHOOL DISTRICT AS "HIGH TAX AID" UNDER THE HEADING "2008-09 BASE YEAR AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "BT112-1".

S 20. Intentionally omitted.

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

Notwithstanding any provision of law to the contrary, for aid payable in the two thousand eight--two thousand nine school year, the grant to each eligible school district for universal prekindergarten aid shall be computed pursuant to this subdivision, AND FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN AND TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEARS, EACH SCHOOL DISTRICT SHALL BE ELIGIBLE FOR A MAXIMUM GRANT EQUAL TO THE AMOUNT SET FORTH FOR SUCH SCHOOL DISTRICT AS "UNIVERSAL PREKIN-

DERGARTEN" UNDER THE HEADING "2008-09 BASE YEAR AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "BT112-1", PROVIDED, HOWEVER, THAT IN THE CASE OF A DISTRICT IMPLEMENTING PROGRAMS FOR THE FIRST TIME OR IMPLEMENTING EXPANSION PROGRAMS IN THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR WHERE SUCH PROGRAMS OPERATE FOR A MINIMUM OF NINETY DAYS IN ANY ONE SCHOOL YEAR AS PROVIDED IN SECTION 151-1.4 OF THE REGULATIONS OF THE COMMISSIONER SUCH SCHOOL DISTRICT SHALL BE ELIGIBLE FOR A MAXIMUM GRANT EQUAL TO THE AMOUNT COMPUTED PURSUANT TO PARAGRAPH A OF SUBDIVISION NINE OF THIS SECTION IN THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR, AND PROVIDED FURTHER THAT THE MAXIMUM GRANT SHALL NOT EXCEED THE TOTAL ACTUAL GRANT EXPENDITURES INCURRED BY THE SCHOOL DISTRICT AS APPROVED BY THE COMMISSIONER.

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

a. State aid adjustments. All errors or omissions in the apportionment shall be corrected by the commissioner. Whenever a school district has been apportioned less money than that to which it is entitled, the commissioner may allot to such district the balance to which it is entitled. Whenever a school district has been apportioned more money than that to which it is entitled, the commissioner may, by an order, direct such moneys to be paid back to the state to be credited to the general fund local assistance account for state aid to the schools, or may deduct such amount from the next apportionment to be made to said district, provided, however, that, upon notification of excess payments of aid for which a recovery must be made by the state through deduction of future aid payments, a school district may request that such excess payments be recovered by deducting such excess payments from the payments due to such school district and payable in the month of June in (i) the school year in which such notification was received and (ii) the two succeeding school years, provided further that there shall be no interest penalty assessed against such district or collected by the state. Such request shall be made to the commissioner in such form as the commissioner shall prescribe, and shall be based on documentation that the total amount to be recovered is in excess of one percent of the district's total general fund expenditures for the preceding school year. The amount to be deducted in the first year shall be the greater of (i) the sum of the amount of such excess payments that is recognized as a liability due to other governments by the district for the preceding school year and the positive remainder of the district's unreserved fund balance at the close of the preceding school year less the product of the district's total general fund expenditures for the preceding school year multiplied by five percent, or (ii) one-third of such excess payments. The amount to be recovered in the second year shall equal the lesser of the remaining amount of such excess payments to be recovered or one-third of such excess payments, and the remaining amount of such excess payments shall be recovered in the third year. Provided further that, notwithstanding any other provisions of this subdivision, any pending payment of moneys due to such district as a prior year adjustment payable pursuant to paragraph c of this subdivision for aid claims that had been previously paid as current year aid payments in excess of the amount to which the district is entitled and for which recovery of excess payments is to be made pursuant to this paragraph, shall be

reduced at the time of actual payment by any remaining unrecovered balance of such excess payments, and the remaining scheduled deductions of such excess payments pursuant to this paragraph shall be reduced by the commissioner to reflect the amount so recovered. [The commissioner shall certify no payment to a school district based on a claim submitted later than three years after the close of the school year in which such payment was first to be made. For claims for which payment is first to be made in the nineteen hundred ninety-six--ninety-seven school year, the commissioner shall certify no payment to a school district based on a claim submitted later than two years after the close of such school year.] For claims for which payment is first to be made [in] PRIOR TO the [nineteen hundred ninety-seven--ninety-eight] TWO THOUSAND EIGHT--TWO THOUSAND NINE school year [and thereafter], the commissioner shall certify no payment to a school district based on a claim submitted later than one year after the close of such school year. FOR CLAIMS FOR WHICH PAYMENT IS FIRST TO BE MADE IN THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR, THE COMMISSIONER SHALL CERTIFY NO PAYMENT TO A SCHOOL DISTRICT IN EXCESS OF THE PAYMENT COMPUTED BASED ON AN ELECTRONIC DATA FILE USED TO PRODUCE THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "BT112-1". FOR CLAIMS FOR WHICH PAYMENT IS FIRST TO BE MADE IN THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND THEREAFTER, THE COMMISSIONER SHALL CERTIFY NO PAYMENT TO A SCHOOL DISTRICT IN EXCESS OF THE PAYMENT COMPUTED BASED ON AN ELECTRONIC DATA FILE USED TO PRODUCE THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST, AND SHALL CERTIFY NO PAYMENT TO A SCHOOL DISTRICT BASED ON A CLAIM SUBMITTED LATER THAN THE DATE UPON WHICH AN ELECTRONIC DATA FILE WAS CREATED FOR THE PURPOSES OF COMPUTING THE JUNE AMOUNT PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH B OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED NINE-A OF THIS ARTICLE, PROVIDED THAT IN THE CASE OF A DISTRICT IMPLEMENTING PROGRAMS FOR THE FIRST TIME OR IMPLEMENTING EXPANSION PROGRAMS IN THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR, WHERE SUCH PROGRAMS OPERATE FOR A MINIMUM OF NINETY DAYS IN ANY ONE SCHOOL YEAR AS PROVIDED IN SECTION 151-1.4 OF THE REGULATIONS OF THE COMMISSIONER, THE COMMISSIONER SHALL CERTIFY NO PAYMENT TO SUCH DISTRICT PURSUANT TO SECTION THIRTY-SIX HUNDRED TWO-E OF THIS PART IN EXCESS OF THE AMOUNT COMPUTED FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR PURSUANT TO PARAGRAPH A OF SUBDIVISION NINE OF SUCH SECTION THIRTY-SIX HUNDRED TWO-E OF THIS PART, AND SHALL CERTIFY NO PAYMENT TO A SCHOOL DISTRICT BASED ON A CLAIM SUBMITTED LATER THAN THE THIRTIETH DAY OF SEPTEMBER IMMEDIATELY FOLLOWING THE SCHOOL YEAR IN WHICH SUCH PROGRAM WAS OPERATED. Provided, however, no payments shall be barred or reduced where such payment is required as a result of a final audit of the state. [It is further provided that, until June thirtieth, nineteen hundred ninety-six, the commissioner may grant a waiver from the provisions of this section for any school district if it is in the best educational interests of the district pursuant to guidelines developed by the commissioner and approved by the director of the budget.]

b. Claims resulting from court orders or judgments. [Any] FOR CLAIMS FOR WHICH PAYMENT IS FIRST TO BE MADE PRIOR TO THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR, ANY payment which would be due as the result of a court order or judgment shall not be barred, provided that, commencing January first, nineteen hundred ninety-six, such court order or judgment and any other data required shall be filed with the comptroller within one year from the date of the court order or judg-

ment, and provided further that the commissioner shall certify no payment to a school district for a specific school year that is based on a claim that results from a court order or judgement so filed with the comptroller unless the total value of such claim, as determined by the commissioner, is greater than one percent of the school district's total revenues from state sources as previously recorded in the general fund and reported to the comptroller in the annual financial report of the school district for such school year.

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

For aid payable in the two thousand seven--two thousand eight [school year] and [thereafter] TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEARS, "moneys apportioned" shall mean the lesser of (i) the sum of one hundred percent of the respective amount set forth for each school district as payable pursuant to this section in the school aid computer listing for the current year produced by the commissioner in support of the budget which includes the appropriation for the general support for public schools for the prescribed payments and individualized payments due prior to April first for the current year plus the apportionment payable during the current school year pursuant to subdivision six-a and subdivision fifteen of section thirty-six hundred two of this part minus any reductions to current year aids pursuant to subdivision seven of section thirty-six hundred four of this part or any deduction from apportionment payable pursuant to this chapter for collection of a school district basic contribution as defined in subdivision eight of section forty-four hundred one of this chapter, less any grants provided pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law, less any grants provided pursuant to subdivision twelve of section thirty-six hundred forty-one of this article, or (ii) the apportionment calculated by the commissioner based on data on file at the time the payment is processed; provided however, that for the purposes of any payments made pursuant to this section prior to the first business day of June of the current year, moneys apportioned shall not include any aids payable pursuant to subdivisions six and fourteen, if applicable, of section thirty-six hundred two of this part as current year aid for debt service on bond anticipation notes and/or bonds first issued in the current year or any aids payable for full-day kindergarten for the current year pursuant to subdivision nine of section thirty-six hundred two of this part. The definitions of "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this part shall apply to this section. For aid payable in the two thousand eight--two thousand nine school year, reference to such "school aid computer listing for the current year" shall mean the printouts entitled "SA0809". FOR AID PAYABLE IN THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND THEREAFTER, "MONEYS APPORTIONED" SHALL MEAN THE LESSER OF (I) THE SUM OF ONE HUNDRED PERCENT OF THE RESPECTIVE AMOUNT SET FORTH FOR EACH SCHOOL DISTRICT AS PAYABLE PURSUANT TO THIS SECTION IN THE SCHOOL AID COMPUTER LISTING FOR THE BASE YEAR PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST WHICH INCLUDES THE APPROPRIATION FOR THE GENERAL SUPPORT FOR PUBLIC SCHOOLS FOR THE PRESCRIBED PAYMENTS AND INDIVIDUALIZED PAYMENTS DUE PRIOR TO APRIL FIRST FOR THE CURRENT YEAR PLUS THE APPORTIONMENT PAYABLE DURING THE CURRENT SCHOOL YEAR PURSUANT TO SUBDIVISIONS SIX-A AND FIFTEEN OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART MINUS ANY REDUCTIONS TO CURRENT YEAR AIDS PURSUANT TO SUBDIVISION SEVEN

OF SECTION THIRTY-SIX HUNDRED FOUR OF THIS PART OR ANY DEDUCTION FROM APPORTIONMENT PAYABLE PURSUANT TO THIS CHAPTER FOR COLLECTION OF A SCHOOL DISTRICT BASIC CONTRIBUTION AS DEFINED IN SUBDIVISION EIGHT OF SECTION FORTY-FOUR HUNDRED ONE OF THIS CHAPTER, LESS ANY GRANTS PROVIDED PURSUANT TO SUBPARAGRAPH TWO-A OF PARAGRAPH B OF SUBDIVISION FOUR OF SECTION NINETY-TWO-C OF THE STATE FINANCE LAW, LESS ANY GRANTS PROVIDED PURSUANT TO SUBDIVISION TWELVE OF SECTION THIRTY-SIX HUNDRED FORTY-ONE OF THIS ARTICLE, OR (II) THE APPORTIONMENT CALCULATED BY THE COMMISSIONER BASED ON DATA ON FILE AT THE TIME THE PAYMENT IS PROCESSED; PROVIDED HOWEVER, THAT FOR THE PURPOSES OF ANY PAYMENTS MADE PURSUANT TO THIS SECTION PRIOR TO THE FIRST BUSINESS DAY OF JUNE OF THE CURRENT YEAR, MONEYS APPORTIONED SHALL NOT INCLUDE ANY AIDS PAYABLE PURSUANT TO SUBDIVISIONS SIX AND FOURTEEN, IF APPLICABLE, OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART AS CURRENT YEAR AID FOR DEBT SERVICE ON BOND ANTICIPATION NOTES AND/OR BONDS FIRST ISSUED IN THE CURRENT YEAR OR ANY AIDS PAYABLE FOR FULL-DAY KINDERGARTEN FOR THE CURRENT YEAR PURSUANT TO SUBDIVISION NINE OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART. THE DEFINITIONS OF "BASE YEAR" AND "CURRENT YEAR" AS SET FORTH IN SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART SHALL APPLY TO THIS SECTION.

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

C. DEFICIT REDUCTION ASSESSMENT FOR TWO THOUSAND NINE--TWO THOUSAND TEN. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE COMPTROLLER SHALL REDUCE PAYMENTS DUE TO EACH DISTRICT PURSUANT TO THIS SECTION BY AN AMOUNT EQUAL TO THE DEFICIT REDUCTION ASSESSMENT COMPUTED FOR SUCH DISTRICT, AND SUCH AMOUNT SHALL BE DEDUCTED FROM THE FIXED FALL PAYMENT DUE THE DISTRICT PURSUANT TO SUBPARAGRAPHS TWO, THREE AND FOUR OF PARAGRAPH A OF THIS SUBDIVISION AND THE INDIVIDUALIZED PAYMENTS DUE THE DISTRICT PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION, AND SHALL BE DEDUCTED ON A CHRONOLOGICAL BASIS STARTING WITH THE EARLIEST PAYMENT DUE THE DISTRICT, AND FINALLY, IF THE REDUCTION IS GREATER THAN THE SUM OF THE AMOUNTS THAT WOULD HAVE BEEN PAID TO THE DISTRICT PURSUANT TO SUCH SUBPARAGRAPHS TWO, THREE AND FOUR OF PARAGRAPH A AND SUCH SUBPARAGRAPH B, THE REMAINDER OF THE REDUCTION SHALL BE WITHHELD FROM THE PAYMENTS SCHEDULED TO BE MADE TO THE DISTRICT OR ON BEHALF OF THE SCHOOL DISTRICT TO THE TEACHER'S RETIREMENT SYSTEM IN THE FALL OF THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR, AND PROVIDED FURTHER THAT THE AMOUNT OF SUCH REDUCTION SHALL BE DEEMED TO HAVE BEEN PAID TO THE DISTRICT PURSUANT TO THIS SECTION FOR THE SCHOOL YEAR IN WHICH SUCH DEDUCTION IS MADE. THE COMMISSIONER SHALL COMPUTE SUCH DEFICIT REDUCTION ASSESSMENT AMOUNT AND SHALL PROVIDE A SCHEDULE OF SUCH REDUCTIONS IN PAYMENTS TO THE STATE COMPTROLLER, THE DIRECTOR OF THE BUDGET, THE CHAIR OF THE SENATE FINANCE COMMITTEE AND THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE.

(2) THE DEFICIT REDUCTION ASSESSMENT FOR TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR SHALL BE COMPUTED AS FOLLOWS, BASED ON DATA USED BY THE COMMISSIONER FOR THE PURPOSES OF PRODUCING A SCHOOL AID COMPUTER LISTING IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "BT112-1".

(I) THE PERCENTAGE REDUCTION SHALL BE THE SUM OF (A) THE PRODUCT OF THE TOTAL AID FOR ADJUSTMENT, MULTIPLIED BY TWO AND EIGHTY-FIVE ONE HUNDREDTHS PERCENT (0.0285), AND (B) THE PRODUCT OF SIX HUNDRED NINETY-EIGHT DOLLARS ($698.00) MULTIPLIED BY THE REDUCTION FACTOR, MULTIPLIED BY THE PUBLIC SCHOOL DISTRICT ENROLLMENT FOR THE BASE YEAR COMPUTED PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH N OF SUBDIVISION ONE OF SUCH

SECTION THIRTY-SIX HUNDRED TWO OF THIS PART, PROVIDED, HOWEVER, THAT SUCH PERCENTAGE REDUCTION SHALL NOT BE LESS THAN THE PRODUCT OF THREE PERCENT (0.03) MULTIPLIED BY SUCH TOTAL AID FOR ADJUSTMENT, AND NOT MORE THAN THIRTEEN PERCENT (0.13) MULTIPLIED BY SUCH TOTAL AID FOR ADJUSTMENT.

(II) THE TAX EFFORT REDUCTION SHALL BE THE PRODUCT OF THE TOTAL AID FOR ADJUSTMENT, MULTIPLIED BY THE QUOTIENT OF THIRTEEN PERCENT (0.13) DIVIDED BY THE QUOTIENT OF THE TAX EFFORT RATIO DIVIDED BY THREE AND FIVE-TENTHS PERCENT (0.035), PROVIDED, HOWEVER, THAT SUCH TAX EFFORT REDUCTION SHALL NOT BE LESS THAN THE PRODUCT OF FIVE PERCENT (0.05) MULTIPLIED BY SUCH TOTAL AID FOR ADJUSTMENT, AND NOT MORE THAN THIRTEEN PERCENT (0.13) MULTIPLIED BY SUCH TOTAL AID FOR ADJUSTMENT.

(III) THE TGFE CHECK SHALL BE THE PRODUCT OF TWO AND ONE-HALF PERCENT (0.025) AND THE TOTAL GENERAL FUND EXPENDITURES OF SUCH DISTRICT IN THE BASE YEAR.

(IV) THE DEFICIT REDUCTION ASSESSMENT FOR A DISTRICT SHALL EQUAL (A) THE DISTRICT'S PERCENTAGE REDUCTION, PROVIDED, HOWEVER, THAT IN THE CASE OF A DISTRICT WITH A TAX EFFORT RATIO GREATER THAN THREE AND ONE-HALF PERCENT (0.035) AND A COMBINED WEALTH RATIO FOR TOTAL FOUNDATION AID THAT IS LESS THAN FOUR (4.0), THE DEFICIT REDUCTION ASSESSMENT FOR A DISTRICT SHALL EQUAL THE LESSER OF THE PERCENTAGE REDUCTION AND THE TAX EFFORT REDUCTION, AND FURTHER PROVIDED, (B) IN THE CASE OF A DISTRICT DETERMINED TO BE A HIGH NEED SCHOOL DISTRICT PURSUANT TO CLAUSE (C) OF SUBPARAGRAPH TWO OF PARAGRAPH C OF SUBDIVISION SIX OF SECTION THIRTY-SIX HUNDRED TWO OF THIS PART FOR THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE ENACTED BUDGET FOR THE TWO THOUSAND SEVEN--TWO THOUSAND EIGHT SCHOOL YEAR AND ENTITLED "SA0708", THE DEFICIT REDUCTION ASSESSMENT FOR A DISTRICT SHALL EQUAL THE LESSER OF THE TGFE CHECK AND THE DEFICIT REDUCTION ASSESSMENT SELECTED PURSUANT TO SUBCLAUSE (A) OF THIS CLAUSE.

(3) FOR THE PURPOSES OF SUCH COMPUTATION,

(I) "TOTAL AID FOR ADJUSTMENT" SHALL MEAN THE SUM OF THE AMOUNTS SET FORTH FOR EACH SCHOOL DISTRICT AS "FOUNDATION AID", "FULL DAY K CONVERSION", "BOCES + SPECIAL SERVICES", "HIGH COST EXCESS COST", "PRIVATE EXCESS COST", "HARDWARE & TECHNOLOGY", "SOFTWARE, LIBRARY, TEXTBOOK", "TRANSPORTATION INCL SUMMER", "OPERATING REORG INCENTIVE", "CHARTER SCHOOL TRANSITIONAL", "EDUCATION GRANTS, ACADEMIC EN", "HIGH TAX AID" AND "SUPPLEMENTAL PUB EXCESS COST" UNDER THE HEADING "2009-10 ESTIMATED AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "BT112-1", AND

(II) "THREE-YEAR AVERAGE FREE AND REDUCED PRICE LUNCH PERCENT" SHALL MEAN THE QUOTIENT OF (A) THE SUM OF THE NUMBER OF PUPILS IN KINDERGARTEN THROUGH GRADE SIX ATTENDING THE PUBLIC SCHOOLS OF THE DISTRICT WHO HAVE APPLICATIONS ON FILE OR WHO ARE LISTED ON A DIRECT CERTIFICATION LETTER CONFIRMING THEIR ELIGIBILITY FOR PARTICIPATION IN THE STATE AND FEDERALLY FUNDED FREE AND REDUCED PRICE LUNCH PROGRAM ON THE DATE ENROLLMENT WAS COUNTED IN ACCORDANCE WITH THIS SUBDIVISION FOR THE YEAR PRIOR TO THE BASE YEAR, PLUS SUCH NUMBER OF ELIGIBLE APPLICANTS FOR THE FREE AND REDUCED PRICE LUNCH PROGRAM COMPUTED FOR THE YEAR TWO YEARS PRIOR TO THE BASE YEAR, PLUS SUCH NUMBER OF ELIGIBLE APPLICANTS FOR THE FREE AND REDUCED PRICE LUNCH PROGRAM COMPUTED FOR THE YEAR THREE YEARS PRIOR TO THE BASE YEAR, DIVIDED BY (B) THE SUM OF THE NUMBER OF PUPILS IN KINDERGARTEN THROUGH GRADE SIX ON A REGULAR ENROLLMENT REGISTER OF A PUBLIC SCHOOL DISTRICT ON THE DATE ENROLLMENT WAS COUNTED IN ACCORDANCE WITH THIS SUBDIVISION FOR THE YEAR PRIOR TO THE BASE YEAR, PLUS SUCH NUMBER

OF PUPILS IN KINDERGARTEN THROUGH GRADE SIX ON A REGULAR ENROLLMENT REGISTER OF A PUBLIC SCHOOL DISTRICT COMPUTED FOR THE YEAR TWO YEARS PRIOR TO THE BASE YEAR, PLUS SUCH NUMBER OF PUPILS IN KINDERGARTEN THROUGH GRADE SIX ON A REGULAR ENROLLMENT REGISTER OF A PUBLIC SCHOOL DISTRICT COMPUTED FOR THE YEAR THREE YEARS PRIOR TO THE BASE YEAR, AS COMPUTED PURSUANT TO SUBPARAGRAPH I OF PARAGRAPH Q OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED TWO OF THIS TITLE, AND

(III) "COMBINED WEALTH RATIO FOR TOTAL FOUNDATION AID" SHALL MEAN THE COMBINED WEALTH RATIO FOR TOTAL FOUNDATION AID COMPUTED PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH C OF SUBDIVISION THREE OF SUCH SECTION THIRTY-SIX HUNDRED TWO OF THIS TITLE, AND

(IV) "TAX EFFORT RATIO" SHALL MEAN THE TAX EFFORT RATIO COMPUTED PURSUANT TO SUBPARAGRAPH THREE OF PARAGRAPH A OF SUBDIVISION SIXTEEN OF SECTION THIRTY-SIX HUNDRED TWO OF THIS TITLE, AND

(V) "REDUCTION FACTOR" SHALL MEAN THE PRODUCT OF THE POSITIVE REMAINDER OF ONE LESS THE THREE-YEAR AVERAGE FREE AND REDUCED PRICE LUNCH PERCENT, MULTIPLIED BY THE COMBINED WEALTH RATIO FOR TOTAL FOUNDATION AID COMPUTED PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH C OF SUBDIVISION THREE OF SECTION THIRTY-SIX HUNDRED TWO OF THIS TITLE.

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

(4) State share of medicaid reimbursements. For the purposes of this subparagraph, [for payments made in the nineteen hundred ninety-five--ninety-six school year, there shall be two reporting periods: the first reporting period shall run from February first, nineteen hundred ninety-five through January thirty-first, nineteen hundred ninety-six, and the second reporting period shall run from February first, nineteen hundred ninety-six through April thirtieth, nineteen hundred ninety-six; thereafter,] the first reporting period shall run from May first of the base year through January thirty-first of the current year, and the second reporting period shall run from February first of the current year through April thirtieth of the current year. Notwithstanding any inconsistent provisions of law to the contrary, the sustaining advance payment due any school district pursuant to clause (ii) of subparagraph three of this paragraph in March shall be reduced by fifty percent of any federal participation during the first reporting period pursuant to title XIX of the social security act, in special education programs provided pursuant to article eighty-nine of this chapter FOR SERVICES PROVIDED ON OR BEFORE JUNE THIRTIETH, TWO THOUSAND NINE; the June payment due any school district pursuant to clause (v) of subparagraph three of this paragraph shall be reduced by fifty percent of any federal participation during the second reporting period FOR SERVICES PROVIDED ON OR BEFORE JUNE THIRTIETH, TWO THOUSAND NINE. Not later than ten days after the end of a reporting period, the commissioner of [social services] HEALTH, as the authorized fiscal agent of the state education department, shall certify to the commissioner and the director of the budget the total amount of such federal moneys paid to a school district for such services during such reporting period. Following each cycle payment, the commissioner of [social services] HEALTH shall report to the commissioner the aggregate amount of such federal medicaid payments to each school district. The commissioner shall recoup such amounts first, to the extent possible, from the specified payment, then by withholding any other moneys due the school district and finally by direct billing to any school district still owing moneys to the state. All moneys withheld or paid to the state on account of this paragraph shall

be credited by the comptroller to the local assistance account for general support for public schools.

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

a. Any moneys to be apportioned by the commissioner to school districts during the school year pursuant to this section FOR SERVICES PROVIDED ON OR BEFORE JUNE THIRTIETH, TWO THOUSAND NINE shall, in the first instance, be designated as the state share of moneys due a school district pursuant to title XIX of the social security act, on account of school supportive health services provided to students with disabilities in special education programs pursuant to article eighty-nine of this chapter and to those pupils who are qualified handicapped persons as defined in the federal rehabilitation act of nineteen hundred seventy-three, as amended. Some or all of such state share may be assigned on behalf of school districts to the department of [social services] HEALTH, as provided herein; any remaining state share moneys shall be paid to school districts on the same schedule as the federal share of such title XIX payments and shall be based on the monthly report of the commissioner of [social services] HEALTH to the commissioner; and any remaining moneys to be apportioned to a school district pursuant to this section shall be paid in accordance with the provisions of subdivision two of this section. The amount to be assigned to the department of [social services] HEALTH, as determined by the commissioner of [social services] HEALTH, for any school district shall not exceed the federal share of any moneys due such school district pursuant to title XIX. Moneys designated as state share moneys shall be paid to such school districts based on the submission and approval of claims related to such school supportive health services, in the manner provided by law.

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

A-1. ANY MONEYS TO BE APPORTIONED BY THE COMMISSIONER TO SCHOOL DISTRICTS DURING THE SCHOOL YEAR PURSUANT TO THIS SECTION FOR SERVICES PROVIDED DURING THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND THEREAFTER SHALL, IN THE FIRST INSTANCE, BE DESIGNATED AS THE STATE SHARE OF MONEYS DUE A SCHOOL DISTRICT PURSUANT TO TITLE XIX OF THE SOCIAL SECURITY ACT, ON ACCOUNT OF SCHOOL SUPPORTIVE HEALTH SERVICES PROVIDED TO STUDENTS WITH DISABILITIES IN SPECIAL EDUCATION PROGRAMS PURSUANT TO ARTICLE EIGHTY-NINE OF THIS CHAPTER AND TO THOSE PUPILS WHO ARE QUALIFIED HANDICAPPED PERSONS AS DEFINED IN THE FEDERAL REHABILITATION ACT OF NINETEEN HUNDRED SEVENTY-THREE, AS AMENDED. SUCH STATE SHARE SHALL BE ASSIGNED ON BEHALF OF SCHOOL DISTRICTS TO THE DEPARTMENT OF HEALTH, AS PROVIDED HEREIN; THE AMOUNT DESIGNATED AS SUCH NONFEDERAL SHARE SHALL BE TRANSFERRED BY THE COMMISSIONER TO THE DEPARTMENT OF HEALTH BASED ON THE MONTHLY REPORT OF THE COMMISSIONER OF HEALTH TO THE COMMISSIONER; AND ANY REMAINING MONEYS TO BE APPORTIONED TO A SCHOOL DISTRICT PURSUANT TO THIS SECTION SHALL BE PAID IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION. THE AMOUNT TO BE ASSIGNED TO THE DEPARTMENT OF HEALTH, AS DETERMINED BY THE COMMISSIONER OF HEALTH, FOR ANY SCHOOL DISTRICT SHALL NOT EXCEED THE FEDERAL SHARE OF ANY MONEYS DUE SUCH SCHOOL DISTRICT PURSUANT TO TITLE XIX. MONEYS DESIGNATED AS STATE SHARE MONEYS SHALL BE PAID TO SUCH SCHOOL DISTRICTS BY THE DEPARTMENT OF HEALTH BASED ON THE SUBMISSION AND APPROVAL OF CLAIMS RELATED TO SUCH SCHOOL SUPPORTIVE HEALTH SERVICES, IN THE MANNER PROVIDED BY LAW.

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

b. Such grants shall be awarded to school districts, within the limits of funds appropriated therefor, through a competitive process that takes into consideration the magnitude of any shortage of teachers in the school district, the number of teachers employed in the school district who hold temporary licenses to teach in the public schools of the state, the number of provisionally certified teachers, the fiscal capacity and geographic sparsity of the district, the number of new teachers the school district intends to hire in the coming school year and the number of summer in the city student internships proposed by an eligible school district, if applicable. Grants provided pursuant to this section shall be used only for the purposes enumerated in this section. Notwithstanding any other provision of law to the contrary, a city school district in a city having a population of one million or more inhabitants receiving a grant pursuant to this section may use no more than eighty percent of such grant funds for any recruitment, retention and certification costs associated with transitional certification of teacher candidates for the school years two thousand one--two thousand two through [two thousand eight--two thousand nine] TWO THOUSAND NINE--TWO THOUSAND TEN.

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

9. Science, mathematics and bilingual education tuition reimbursement program. [Of the amount appropriated for purposes of this section for grants to school districts for the two thousand seven--two thousand eight school year and thereafter, five million dollars ($5,000,000) shall be made available for a] A SCIENCE, MATHEMATICS AND BILINGUAL EDUCATION TUITION REIMBURSEMENT PROGRAM MAY BE AVAILABLE TO ELIGIBLE TEACHERS PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION TO ATTRACT QUALIFIED TEACHERS WHO HAVE RECEIVED OR WILL RECEIVE A TRANSITIONAL TEACHING CERTIFICATE TO TEACH MATHEMATICS, SCIENCE, OR BILINGUAL EDUCATION IN A LOW PERFORMING SCHOOL. A science, mathematics and bilingual education tuition reimbursement program SHALL BE developed by the commissioner to attract qualified teachers who have received or will receive a transitional teaching certificate, to teach mathematics, science, or bilingual education in a low-performing school.

S 30. Intentionally Omitted.

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

a. In addition to apportionments otherwise provided by section thirty-six hundred two of this article, for aid payable in the two thousand eight--two thousand nine AND TWO THOUSAND NINE--TWO THOUSAND TEN school [year] YEARS, the amounts specified in paragraphs c and d of this subdivision shall be paid for the purpose of providing additional funding for school districts which have experienced a significant financial hardship caused by an extraordinary change in the taxable property valuation or extraordinary judgments resulting from tax certiorari proceedings.

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

b. To the Roosevelt union free school district there shall be paid [twelve] SIX million dollars [($12,000,000)] ($6,000,000) on an annual basis. For school years commencing on July first, two thousand seven and

thereafter, such special academic improvement grant shall be payable from funds appropriated for such purpose and shall be apportioned to the Roosevelt union free school district in accordance with the payment schedules contained in section three thousand six hundred nine-a of this article, notwithstanding any provision of law to the contrary.

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

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

6. Notwithstanding any other law, rule or regulation to the contrary, the board of education of a city school district with a population of one hundred twenty-five thousand or more inhabitants shall be permitted to establish maximum class sizes for special classes for certain students with disabilities in accordance with the provisions of this subdivision. For the purpose of obtaining relief from any adverse fiscal impact from under-utilization of special education resources due to low student attendance in special education classes at the middle and secondary level as determined by the commissioner, such boards of education shall, during the school years nineteen hundred ninety-five--ninety-six through June thirtieth, two thousand [nine] TEN of the [two thousand eight--two thousand nine] TWO THOUSAND NINE--TWO THOUSAND TEN school year, be authorized to increase class sizes in special classes containing students with disabilities whose age ranges are equivalent to those of students in middle and secondary schools as defined by the commissioner for purposes of this section by up to but not to exceed one and two tenths times the applicable maximum class size specified in regulations of the commissioner rounded up to the nearest whole number, provided that in a city school district having a population of one million or more, classes that have a maximum class size of fifteen may be increased by no more than one student and provided that the projected average class size shall not exceed the maximum specified in the applicable regulation, provided that such authorization shall terminate on June thirtieth, two thousand. Such authorization shall be granted upon filing of a notice by such a board of education with the commissioner stating the board's intention to increase such class sizes and a certification that the board will conduct a study of attendance problems at the secondary level and will implement a corrective action plan to increase the rate of attendance of students in such classes to at least the rate for students attending regular education classes in secondary schools of the district. Such corrective action plan shall be submitted for approval by the commissioner by a date during the school year in which such board increases class sizes as provided pursuant to this subdivision to be prescribed by the commissioner. Upon at least thirty days notice to the board of education, after conclusion of the school year in which such board increases class sizes as provided pursuant to this subdivision, the commissioner shall be authorized to terminate such authorization upon a finding that the board has failed to develop or implement an approved corrective action plan.

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

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

(i) Commencing with the nineteen hundred ninety--ninety-one school year, the commissioner shall annually determine the tuition rate for approved services or programs provided to preschool children pursuant to

this section. Such rates for providers of such services and programs shall be determined in conformance with a methodology established pursuant to subdivision four of section forty-four hundred five of this article after consultation with and a review of an annual report prepared by the advisory committee established pursuant to paragraph a of subdivision twelve of this section and shall be subject to the approval of the director of the budget. Notwithstanding any other provision of law, rule or regulation to the contrary, tuition rates established for the nineteen hundred ninety-five--ninety-six school year shall exclude the two percent cost of living adjustment authorized in rates established for the nineteen hundred ninety-four--ninety-five school year. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, REIMBURSEMENT OF THE COSTS OF SPECIAL EDUCATION ITINERANT SERVICES PROVIDED IN THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND THEREAFTER SHALL BE BASED UPON ACTUAL SERVICES RENDERED AND THE FULL-TIME EQUIVALENT ATTENDANCE OF PRESCHOOL CHILDREN RECEIVING SUCH SERVICES.

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

a. The approved costs for a preschool child who receives services pursuant to this section shall be a charge upon the municipality [wherein] IN WHICH THE PARENT, OR PERSON IN PARENTAL RELATIONSHIP TO such child resides IN THE FIRST INSTANCE. All approved costs shall be paid in the first instance and at least quarterly by the appropriate governing body or officer of the municipality upon vouchers presented and audited in the same manner as the case of other claims against the municipality. Notwithstanding any inconsistent provisions of this section, upon notification by the commissioner, a municipality may withhold payments due any provider for services rendered to preschool children in a program for which the commissioner has been unable to establish a tuition rate due to the failure of the provider to file complete and accurate reports for such purpose, as required by the commissioner.

b. (i) Commencing with the reimbursement of municipalities for services provided pursuant to this section on or after July first, nineteen hundred ninety-three AND ENDING WITH THE REIMBURSEMENT OF MUNICIPALITIES FOR SERVICES PROVIDED PURSUANT TO THIS SECTION ON OR BEFORE JUNE THIRTIETH, TWO THOUSAND EIGHT, the state shall reimburse fifty-nine and one half percent of the approved costs paid by a municipality for the purposes of this section. Commencing with the reimbursement of municipalities, OTHER THAN THE CITY OF NEW YORK, for services provided pursuant to this section on or after [July first, nineteen hundred ninety-four] JULY FIRST, TWO THOUSAND EIGHT, the state shall reimburse [sixty-nine and one-half] SIXTY-TWO percent of the approved costs paid by a municipality for the purposes of this section. [The state shall reimburse fifty percent of the approved costs paid by a municipality for the purposes of this section for services provided prior to July first, nineteen hundred ninety-three.] IN THE CASE OF THE CITY OF NEW YORK, COMMENCING WITH THE REIMBURSEMENT OF SUCH MUNICIPALITY FOR SERVICES PROVIDED PURSUANT TO THIS SECTION ON OR AFTER JULY FIRST, TWO THOUSAND EIGHT, THE STATE SHALL REIMBURSE FORTY-SEVEN PERCENT OF THE APPROVED COSTS PAID BY SUCH MUNICIPALITY FOR THE PURPOSES OF THIS SECTION. Such

state reimbursement to the municipality shall not be paid prior to April first of the school year in which such approved costs are paid by the municipality.

(ii) FIFTEEN PERCENT OF SUCH APPROVED COSTS FOR SERVICES PROVIDED TO A PRESCHOOL CHILD PURSUANT TO THIS SECTION ON OR AFTER JULY FIRST, TWO THOUSAND EIGHT ALSO SHALL BE A CHARGE UPON THE SCHOOL DISTRICT IN WHICH THE PARENT, OR PERSON IN PARENTAL RELATIONSHIP TO SUCH CHILD RESIDES, AND SUCH SCHOOL DISTRICT SHALL REIMBURSE THE STATE IN SUCH AMOUNT IN ACCORDANCE WITH THIS SUBPARAGRAPH; EXCEPT THAT THIS SUBPARAGRAPH SHALL NOT APPLY TO THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK. THE COMMISSIONER SHALL DEDUCT AN AMOUNT EQUAL TO SUCH UNPAID OBLIGATION FROM ANY GENERAL AID FOR PUBLIC SCHOOLS PAYMENTS WHICH BECOME DUE TO SUCH SCHOOL DISTRICT PURSUANT TO SECTION THIRTY-SIX HUNDRED NINE-A OF THIS CHAPTER, EXCLUDING PAYMENTS PURSUANT TO CLAUSE (III) OF SUBPARAGRAPH THREE OF PARAGRAPH B OF SUBDIVISION ONE OF SUCH SECTION THIRTY-SIX HUNDRED NINE-A. WHERE SUCH SCHOOL DISTRICT IS NOT ELIGIBLE FOR PAYMENTS PURSUANT TO SUCH SECTION THIRTY-SIX HUNDRED NINE-A, OR THE AMOUNT OF SUCH UNPAID OBLIGATION EXCEEDS THE AMOUNT DUE SUCH SCHOOL DISTRICT PURSUANT TO SUCH SECTION THIRTY-SIX HUNDRED NINE-A IN THE CURRENT SCHOOL YEAR, THE COMMISSIONER SHALL BILL AND RECOVER FROM SUCH SCHOOL DISTRICT ANY EXCESS UNPAID OBLIGATION AND THE AMOUNT RECOVERED FROM SUCH SCHOOL DISTRICT SHALL BE CREDITED TO THE APPROPRIATION FOR PURPOSES OF THIS SECTION IN THE LOCAL ASSISTANCE ACCOUNT OF THE DEPARTMENT. PROVIDED, HOWEVER, THAT NO SUCH DEDUCTION OR RECOVERY SHALL BE MADE PRIOR TO JULY FIRST, TWO THOUSAND NINE AND THE AMOUNTS SO DEDUCTED FROM PAYMENTS PURSUANT TO SUCH SECTION THIRTY-SIX HUNDRED NINE-A SHALL BE TRANSFERRED TO THE APPROPRIATION MADE FOR PURPOSES OF THIS SECTION FROM THE GENERAL SUPPORT FROM PUBLIC SCHOOLS APPROPRIATION.

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

[(iii)] (IV) Notwithstanding the provisions of this paragraph, any monies due municipalities pursuant to this paragraph shall be reduced by an amount equal to the product of the percentage of the approved costs reimbursed by the state pursuant to subparagraph [i] (I) of this paragraph and any federal participation, pursuant to title XIX of the social security act, in special education programs provided pursuant to this section. The commissioner shall deduct such amount, as certified by the commissioner of [social services] HEALTH as the authorized fiscal agent of the state education department. Such deductions shall be made in accordance with a plan developed by the commissioner and approved by the director of the budget. To the extent that such deductions exceed moneys owed to the municipality pursuant to this paragraph, such excess shall be deducted from any other payments due the municipality.

[(iv)] (V) Notwithstanding any other provision of law to the contrary, no payments shall be made by the commissioner pursuant to this section on or after July first, nineteen hundred ninety-six based on a claim for services provided during school years nineteen hundred eighty-nine--ninety, nineteen hundred ninety--ninety-one, nineteen hundred ninety-one-ninety-two, nineteen hundred ninety-two--ninety-three, nineteen hundred ninety-three--ninety-four, and nineteen hundred ninety-four--ninety-five which is submitted later than two years after the end of the nineteen hundred ninety-five--ninety-six school year; provided, however, that no payment shall be barred or reduced where such payment is required as a result of a court order or judgment or a final audit, and provided further that the commissioner may grant a waiver to a municipality excusing the late filing of such a claim upon a finding that the delay was caused by a party other than the municipality or a board to which the municipality delegated authority pursuant to paragraph f of subdivision five or subdivision eight of this section.

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

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

S 38. Paragraph b of subdivision 1 of section 4452 of the education law is REPEALED.

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

10. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE GOVERNING BOARD OF A SCHOOL DISTRICT MAY, DURING THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR, AUTHORIZE A WITHDRAWAL FROM THIS FUND IN AN AMOUNT NOT TO EXCEED THE LESSER OF: (A) THE DOLLAR VALUE OF EXCESS FUNDING IN THE FUND AS DETERMINED BY THE COMPTROLLER PURSUANT TO SECTION THIRTY-THREE OF THIS CHAPTER OR (B) THE AMOUNT OF THE SCHOOL DISTRICT'S DEFICIT REDUCTION ASSESSMENT AS CALCULATED BY THE COMMISSIONER OF EDUCATION PURSUANT TO FORMER PARAGRAPH C OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED ONE-A OF THE EDUCATION LAW. FUNDS WITHDRAWN PURSUANT TO THIS SUBDIVISION MAY ONLY BE USED FOR THE PURPOSE OF MAINTAINING EDUCA-

TIONAL PROGRAMMING DURING THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR WHICH OTHERWISE WOULD HAVE BEEN REDUCED AS A RESULT OF SUCH DEFICIT REDUCTION ASSESSMENT. GOVERNING BOARDS WHICH MAKE SUCH A WITHDRAWAL SHALL SUBMIT, IN A FORM PRESCRIBED BY THE COMMISSIONER OF EDUCATION, RELEVANT INFORMATION ABOUT THE WITHDRAWAL, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO, THE AMOUNT OF SUCH WITHDRAWAL, THE DATE OF WITHDRAWAL, AND THE USE OF SUCH WITHDRAWN FUNDS.

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

3. IN ADDITION TO THE INSPECTION AND EXAMINATION OF CERTAIN ACCOUNTS PURSUANT TO THIS SECTION, THE COMPTROLLER DURING THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR, SHALL ALSO EXAMINE FOR THE MOST RECENT SCHOOL YEAR PRACTICABLE, THE EMPLOYEE BENEFIT ACCRUED LIABILITY RESERVE FUNDS OF SCHOOL DISTRICTS ESTABLISHED PURSUANT TO SECTION SIX-P OF THIS CHAPTER. SUCH EXAMINATION SHALL BE FOR THE PURPOSE OF DETERMINING THE AMOUNT OF FUNDING IN THE RESERVE FUND, THE AMOUNT OF LIABILITIES AGAINST SUCH FUND AND IF THERE EXIST FUNDS IN THE RESERVE FUND WHICH ARE IN EXCESS OF THE TOTAL LIABILITIES OF SUCH FUND. THE COMPTROLLER SHALL NOTIFY THE SCHOOL DISTRICT IF SUCH EXCESS FUNDS EXIST AND THE DOLLAR VALUE OF THE EXCESS FUNDING. THE COMPTROLLER SHALL ALSO PREPARE A REPORT ON THE SCHOOL DISTRICTS WITH EXCESS FUNDS IN THEIR EMPLOYEE BENEFIT ACCRUED LIABILITY RESERVE FUND AND THE AMOUNT OF THE EXCESS FUNDING FOR EACH DISTRICT. SUCH REPORT SHALL BE SUBMITTED BY JULY FIRST, TWO THOUSAND TEN TO THE DIRECTOR OF THE BUDGET, THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE AND THE COMMISSIONER OF EDUCATION.

S 41. Subdivision b of section 2 of 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, as amended by section 36 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

b. Reimbursement for programs approved in accordance with subdivision a of this section for the 2006-07 school year shall not exceed 64.7 percent of the lesser of such approvable costs per contact hour or nine dollars and twenty-five cents per contact hour where a contact hour represents sixty minutes of instruction services provided to an eligible adult, reimbursement for the 2007-08 school year shall not exceed 63.3 percent of the lesser of such approvable costs per contact hour or nine dollars and ninety cents per contact hour where a contact hour represents sixty minutes of instruction services provided to an eligible adult, [and] reimbursement for the 2008-09 school year shall not exceed 62.8 percent of the lesser of such approvable costs per contact hour or ten dollars and sixty-five cents per contact hour where a contact hour represents sixty minutes of instruction services provided to an eligible adult AND REIMBURSEMENT FOR THE 2009-10 SCHOOL YEAR SHALL NOT EXCEED 64.1 PERCENT OF THE LESSER OF SUCH APPROVABLE COSTS PER CONTACT HOUR OR ELEVEN DOLLARS AND FORTY CENTS PER CONTACT HOUR WHERE A CONTACT HOUR REPRESENTS SIXTY MINUTES OF INSTRUCTION SERVICES PROVIDED TO AN ELIGIBLE ADULT. Notwithstanding any other provision of law to the contrary, for the 2006-07 school year such contact hours shall not exceed one million nine hundred twenty-three thousand seventy-six (1,923,076) hours; whereas for the 2007-08 school year such contact hours shall not exceed one million eight hundred thirty-seven thousand sixty (1,837,060) hours; whereas for the 2008-09 school year such contact hours shall not exceed one million nine hundred forty-six thousand one hundred seven (1,946,107) hours; WHEREAS FOR THE 2009-10 SCHOOL YEAR SUCH CONTACT

HOURS SHALL NOT EXCEED ONE MILLION FIVE HUNDRED SEVENTY-FIVE THOUSAND THREE HUNDRED FORTY-TWO (1,575,342) HOURS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE APPORTIONMENT CALCULATED FOR THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK PURSUANT TO SUBDIVISION 11 OF SECTION 3602 OF THE EDUCATION LAW SHALL BE COMPUTED AS IF SUCH CONTACT HOURS PROVIDED BY THE CONSORTIUM FOR WORKER EDUCATION, NOT TO EXCEED THE CONTACT HOURS SET FORTH HEREIN, WERE ELIGIBLE FOR AID IN ACCORDANCE WITH THE PROVISIONS OF SUCH SUBDIVISION 11 OF SECTION 3602 OF THE EDUCATION LAW.

S 42. Section 4 of 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, is amended by adding a new subdivision o to read as follows:

O. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY AFTER THE COMPLETION OF PAYMENTS FOR THE 2009-2010 SCHOOL YEAR. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF LAW, THE COMMISSIONER OF EDUCATION SHALL WITHHOLD A PORTION OF EMPLOYMENT PREPARATION EDUCATION AID DUE TO THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK TO SUPPORT A PORTION OF THE COSTS OF THE WORK FORCE EDUCATION PROGRAM. SUCH MONEYS SHALL BE CREDITED TO THE ELEMENTARY AND SECONDARY EDUCATION FUND-LOCAL ASSISTANCE ACCOUNT AND SHALL NOT EXCEED ELEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS ($11,500,000).

S 43. Section 6 of 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, as amended by section 38 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

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

S 44. Subdivision 1 of section 167 of 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 as amended by section 39 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

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

S 45. Subdivisions 22 and 24 of section 140 of 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, as amended by section 40 of part B of chapter 57 of the laws of 2008, are amended to read as follows:

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

(24) sections one hundred eighteen through one hundred thirty of this act shall be deemed to have been in full force and effect on and after July 1, 1995; provided further, however, that the amendments made pursuant to section one hundred nineteen of this act shall be deemed to be repealed on and after July 1, [2009] 2010;

S 46. Section 7 of chapter 472 of the laws of 1998 amending the education law relating to the lease of school buses by school districts, as amended by section 53 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

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

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

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the [2008-2009] school year FOLLOWING THE SCHOOL YEAR IN WHICH APPLICATION WAS MADE, pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph (1) of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

S 48. School bus driver training. In addition to apportionments otherwise provided by section 3602 of the education law, for aid payable in the 2009-2010 school year, the commissioner of education shall allocate school bus driver training grants to school districts and boards of cooperative education services pursuant to sections 3650-a, 3650-b and 3650-c of the education law, or for contracts directly with not-for-profit educational organizations for the purposes of this section. Such payments shall not exceed four hundred thousand dollars ($400,000).

S 49. Support of public libraries. The moneys appropriated for the support of public libraries by a chapter of the laws of 2009 enacting the education, labor and family assistance budget shall be apportioned for 2009-2010 in accordance with the provisions of chapter 917 of the laws of 1990, as otherwise amended by chapter 625 of the laws of 1991, chapter 260 of the laws of 1993, chapter 524 of the laws of 1998, chapters 571 and 572 of the laws of 2003, part O of chapter 57 of the laws of 2005, chapter 58 of the laws of 2006, and chapter 57 of the laws of 2007 taking into account the provisions of section 483 of chapter 170 of the laws of 1994, chapter 82 of the laws of 1995 and the provisions of this section, provided that library construction aid pursuant to section 273-a of the education law shall not be payable from the appropriation for the support of public libraries and provided further that no member library shall receive less local services aid than it received in 2001 except as a result of a reduction adjustment necessary to conform to the appropriation for support of public libraries and provided further, that no system or program, as defined by the commissioner of education, shall receive less total system or program aid than it received for the year 2001-2002 except as a result of a reduction adjustment necessary to

conform to the appropriation for support of public libraries and provided further, notwithstanding any provisions of law to the contrary, no library or library system shall receive less aid pursuant to section 271, 272, or 273 of the education law than it received for the year 2001-2002 by reason of a decrease in the population of the area served, or the ratio of the area served to the population of the state, as a result of the latest federal census, provided that such aid shall be subject to a reduction adjustment pursuant to this section. Notwithstanding any other provision of law to the contrary the moneys appropriated for the support of public libraries for the year 2009--2010 by a chapter of the laws of 2009 enacting the education, labor and family assistance budget shall fulfill the state's obligation to provide such aid and, pursuant to a plan developed by the commissioner of education and approved by the director of the budget, the aid payable to libraries and library systems pursuant to such appropriation shall be reduced proportionately to assure that the total amount of aid payable does not exceed the total appropriation for such purpose.

S 50. Special apportionment for salary expenses. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not sooner than the first day of the second full business week of June, 2010 and not later than the last day of the third full business week of June, 2010, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2010, for salary expenses incurred between April 1 and June 30, 2010, and such apportionment shall not exceed the deficit reduction assessment of 1990-91 as determined by the commissioner of education, pursuant to paragraph f of subdivision 1 of section 3602 of the education law, as in effect through June 30, 1993, plus 186 percent of such amount for a city school district in a city with a population in excess of 1,000,000 inhabitants and plus 209 percent of such amount for a city school district in a city with a population of more than 195,000 inhabitants and less than 219,000 inhabitants according to the latest federal census, and shall not exceed such salary expenses. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

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

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to

subdivisions a and b of this section shall first be deducted from the following payments due the school district during the school year following the year in which application was made pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph (1) of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

S 51. Special apportionment for public pension accruals. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not later than June 30, 2010, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2010, and such apportionment shall not exceed the additional accruals required to be made by school districts in the 2004-05 and 2005-06 school years associated with changes for such public pension liabilities. The amount of such additional accrual shall be certified to the commissioner of education by the president of the board of education or the trustees or, in the case of a city school district in a city with a population in excess of 125,000 inhabitants, the mayor of such city. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

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

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the school year following the year in which application was made pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph and then followed by the district's payments to the

teachers' retirement system pursuant to subparagraph (1) of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

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

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

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

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

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

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

a. for the purpose of the development, maintenance or expansion of magnet schools or magnet school programs for the two thousand nine--two thousand ten school year. To the city school district of the city of New York there shall be paid forty-eight million one hundred seventy-five thousand dollars ($48,175,000) including five hundred thousand dollars ($500,000) for the Andrew Jackson High School; to the Buffalo city school district, twenty-one million twenty-five thousand dollars ($21,025,000); to the Rochester city school district, fifteen million dollars ($15,000,000); to the Syracuse city school district, thirteen million dollars ($13,000,000); to the Yonkers city school district, forty-nine million five hundred thousand dollars, ($49,500,000); to the Newburgh city school district, four million six hundred forty-five thousand dollars ($4,645,000); to the Poughkeepsie city school district, two million four hundred seventy-five thousand dollars ($2,475,000); to the Mount Vernon city school district, two million dollars ($2,000,000); to the New Rochelle city school district, one million four hundred ten thousand dollars ($1,410,000); to the Schenectady city school district, one million eight hundred thousand dollars ($1,800,000); to the Port Chester city school district, one million one hundred fifty thousand dollars ($1,150,000); to the White Plains city school district, nine hundred thousand dollars ($900,000); to the Niagara Falls city school district, six hundred thousand dollars ($600,000); to the Albany city

school district, three million five hundred fifty thousand dollars ($3,550,000); to the Utica city school district, two million dollars ($2,000,000); to the Beacon city school district, five hundred sixty-six thousand dollars ($566,000); to the Middletown city school district, four hundred thousand dollars ($400,000); to the Freeport union free school district, four hundred thousand dollars ($400,000); to the Greenburgh central school district, three hundred thousand dollars ($300,000); to the Amsterdam city school district, eight hundred thousand dollars ($800,000); to the Peekskill city school district, two hundred thousand dollars ($200,000); and to the Hudson city school district, four hundred thousand dollars ($400,000).

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

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

d. for the purpose of teacher support for the two thousand nine--two thousand ten school year: to the city school district of the city of New York, sixty-two million seven hundred seven thousand dollars ($62,707,000); to the Buffalo city school district, one million seven hundred forty-one thousand dollars ($1,741,000); to the Rochester city school district, one million seventy-six thousand dollars ($1,076,000); to the Yonkers city school district, one million one hundred forty-seven thousand dollars ($1,147,000); and to the Syracuse city school district, eight hundred nine thousand dollars ($809,000). All funds made available to a school district pursuant to this subdivision shall be distributed among teachers including prekindergarten teachers and teachers of adult vocational and academic subjects in accordance with this subdivision and shall be in addition to salaries heretofore or hereafter negotiated or made available; provided, however, that all funds distributed pursuant to this section for the current year shall be deemed to incorporate all funds distributed pursuant to former subdivision 27 of section 3602 of the education law for prior years. In school districts where the teachers are represented by certified or recognized employee organizations, all salary increases funded pursuant to this section shall be determined by separate collective negotiations conducted pursuant to the provisions

and procedures of article 14 of the civil service law, notwithstanding the existence of a negotiated agreement between a school district and a certified or recognized employee organization.

S 55. 1. Support for educational television and radio. The commissioner of education shall undertake a review of the methodology used to allocate aid to educational broadcast councils and public radio stations no later than May 1, 2009 and before any funds may be disbursed or allocated in support of educational television and radio in the 2009-10 state fiscal year. The review shall consider if the current allocation methodology for aid to educational broadcast councils and public radio stations should be modified given the level of aid to educational television and radio in the 2009-10 state fiscal year and if such allocation will ensure recipients of such aid will continue to receive an equitable share of such aid given the appropriated levels of support in the 2009-10 state fiscal year.

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

S 56. Severability. The provisions of this act shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this act to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section or part of this act or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

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

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

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

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

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

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

6. The amendments to 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 made by sections forty-one and

forty-two of this act shall not affect the repeal of such chapter and shall be deemed repealed therewith;

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

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

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

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

PART B

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

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

S 3. Continuity of authority. Upon the transfer pursuant to section one of this act of the functions and powers possessed by and all of the obligations and duties of the New York state theatre institute as established pursuant to article 9 of the arts and cultural affairs law to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation foundation as prescribed by section one of this act for the purpose of succession to all functions, powers, duties and obligations of the New York state theatre institute, the Nelson A. Rockefeller Empire State Plaza performing arts center corporation shall be deemed and held to constitute the continuation of such authority and not a different agency or authority.

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

Empire State Plaza performing arts center corporation and shall be made immediately available to the corporation for its production, education and operations programs in carrying out the provisions of this act.

S 5. Completion of unfinished business. Upon the transfer pursuant to section one of this act of the functions and powers possessed by and all of the obligations and duties of the New York state theatre institute as established pursuant to article 9 of the arts and cultural affairs law to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation as prescribed by section one of this act, any business or other matter undertaken or commenced by the New York state theatre institute pertaining to or connected with the functions, powers, obligations and duties so transferred and assigned to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation may be conducted or completed by the Nelson A. Rockefeller Empire State Plaza performing arts center corporation.

S 6. Terms occurring in laws, contracts or other documents. Upon the transfer pursuant to section one of this act of the functions and powers possessed by and all of the obligations and duties of the New York state theatre institute as established pursuant to article 9 of the arts and cultural affairs law to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation foundation as prescribed by section one of this act, whenever the New York state theatre institute and the chairperson thereof, the functions, powers, obligations and duties of which are transferred to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation are referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties transferred and assigned pursuant to this act, such reference or designation shall be deemed to refer to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation and its executive director. Notwithstanding any law to the contrary, all rights and benefits, including terms and conditions of employment, and protection of civil service and collective bargaining of all employees affected by the transfer of the New York state theatre institute to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation, shall be preserved and protected under the transfer, and all transferred employees shall be considered for all purposes of article 14 of the civil service law public employees and employees who are transferred shall remain in the same collective bargaining unit.

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

S 8. Pending actions and proceedings. Upon the transfer pursuant to section one of this act of the functions and powers possessed by and all of the obligations and duties of the New York state theatre institute as established pursuant to article 9 of the arts and cultural affairs law transfer to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation as prescribed by section one of this act, no action or proceeding pending on the effective date of this act, brought by or against the New York state theatre institute or executive director thereof shall be affected by any provision of this act, but the same may be

prosecuted or defended in the name of the executive director of the Nelson A. Rockefeller Empire State Plaza performing arts center corporation. In all such actions and proceedings, the Nelson A. Rockefeller Empire State Plaza performing arts center corporation, upon application to the court, shall be substituted as a party.

S 9. Continuance of rules and regulations. Upon the transfer pursuant to section one of this act of the functions and powers possessed by and all the obligations and duties of the New York state theatre institute as established pursuant to article 9 of the arts and cultural affairs law transfer to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation as prescribed by section one of this act, all rules, regulations, acts, determinations and decisions of the New York state theatre institute, pertaining to the functions transferred and assigned by this act to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation in force at the time of such transfer, assignment, assumption or devolution shall continue in force and effect as rules, regulations, acts, determinations and decisions of the Nelson A. Rockefeller Empire State Plaza performing arts center corporation until duly modified or repealed.

S 10. Transfer of funds. Upon the transfer pursuant to section one of this act of the functions and powers possessed by and all of the obligations and duties of the New York state theatre institute as established pursuant to article 9 of the arts and cultural affairs law to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation as prescribed by section one of this act, all funds pertaining to the New York state theatre institute shall be transferred to and maintained by the Nelson A. Rockefeller Empire State Plaza performing arts center corporation. Upon such transfer pursuant to section one of this act, all funds held by the New York state theatre institute in the New York state theatre institute corporation fund established pursuant to section 97-u of the state finance law shall be transferred to the performing arts center corporation fund established pursuant to section 97-s of the state finance law.

S 11. Transfer of appropriations. Upon the transfer pursuant to section one of this act of the functions and powers possessed by and all of the obligations and duties of the New York state theatre institute as established pursuant to article 9 of the arts and cultural affairs law to the Nelson A. Rockefeller Empire State Plaza performing arts center corporation as prescribed by section one of this act, all appropriations and reappropriations which shall have been made available as of the date of such transfer to the New York state theatre institute or segregated pursuant to law, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, shall be transferred to and made available for use and expenditure by the Nelson A. Rockefeller Empire State Plaza performing arts center corporation for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the commissioner of taxation and finance, on audit and warrant of the comptroller. Payments of liabilities for expenses of personal service, maintenance and operation which shall have been incurred as of the date of such transfer by the New York state theatre institute, and for liabilities incurred and to be incurred in completing its affairs shall also be made on vouchers certified or approved by the executive director of the Nelson A. Rockefeller Empire State Plaza performing arts center corporation, on audit and warrant of the comptroller.

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

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

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

3. Moneys of this account, following appropriation by the legislature, shall be available to support the following agencies and programs: (a) the state education department for services and expenses of the cultural education program including operating expenses and capital projects and the New York state summer school of the arts subject to a plan approved by the commissioner of education and the director of the budget; (b) [the New York state theatre institute subject to a plan approved by the director of the budget; and (c)] AND the Nelson A. Rockefeller performing arts center corporation subject to a plan approved by the director of the budget.

S 12-a. Chapter 688 of the laws of 1979 creating the Nelson A. Rockefeller Empire State Plaza performing arts center corporation, is REPEALED.

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

ARTICLE 9

NELSON A. ROCKEFELLER EMPIRE STATE PLAZA PERFORMING ARTS CENTER CORPORATION

SECTION 9.01. LEGISLATIVE FINDINGS AND DECLARATION.
9.03. DEFINITIONS.
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S 9.01. LEGISLATIVE FINDINGS AND DECLARATION. 1. IT IS HEREBY FOUND THAT THERE CONTINUES TO EXIST A NEED FOR A PERFORMING ARTS CENTER IN THE CITY OF ALBANY, AS DETERMINED BY THE TEMPORARY STATE COMMISSION ON THE

CAPITAL CITY CREATED BY CHAPTER THREE HUNDRED NINETEEN OF THE LAWS OF NINETEEN HUNDRED SIXTY-ONE.

2. IT IS FURTHER FOUND THAT THE LEGISLATIVE FINDINGS SET DOWN UPON THE CREATION OF THE EMPIRE STATE YOUTH THEATRE INSTITUTE PURSUANT TO CHAPTER EIGHT HUNDRED TWENTY-SIX OF THE LAWS OF NINETEEN HUNDRED SEVENTY-FOUR, CONTINUE TO BE VALID AND HEREBY REAFFIRMS AND RESTATES THESE FINDINGS:

(A) THE ARTS ARE A MOTIVATING FORCE IN OUR SCHOOLS AND IN OUR SOCIETY. THEY ARE A SENSITIZING EXPERIENCE FOR A FULLER LIFE AND A COMPLEMENT TO THE SKILLS OF READING, WRITING AND MATHEMATICS.

(B) THE USE OF CREATIVE ARTS FOR CHILDREN AND YOUTH WITHIN THE EDUCATIONAL STRUCTURE HAS BEEN SHOWN TO INCREASE STUDENT SUCCESS IN ALL DISCIPLINES AND TO ENCOURAGE EMOTIONAL GROWTH.

(C) TEACHERS SHOULD BE EXPERIENCED IN THE USE OF ARTS AND THEATRE TECHNIQUES IN REACHING AND WORKING WITH CHILDREN AND YOUNG PEOPLE, AS WELL AS BE PREPARED IN THE USE OF COMMUNITY CULTURAL AND HUMAN RESOURCES.

(D) THE LEGISLATURE FURTHER FINDS THAT THERE SHOULD BE A STATE THEATRE INSTITUTE ESTABLISHED WITHIN THE NELSON A. ROCKEFELLER EMPIRE STATE PLAZA PERFORMING ARTS CENTER CORPORATION DEDICATED TO BRINGING ARTS IN EDUCATION TO THE CHILDREN AND YOUNG PEOPLE OF THIS STATE.

(E) IT IS FURTHER FOUND THAT SUCH STATE THEATRE INSTITUTE SHOULD EMBODY A MODEL THEATRE AND EDUCATION PROGRAM FOR THE CHILDREN OF NEW YORK STATE AND SHOULD SYMBOLIZE THE COMMITMENT OF THE PEOPLE OF THE STATE OF NEW YORK TO THE MAINTENANCE AND DEVELOPMENT OF THEATRE AND EDUCATION FOR CHILDREN AND YOUNG PEOPLE WHILE MAKING PROGRAMS OF SUCH THEATRE INSTITUTE ACCESSIBLE TO THE GENERAL PUBLIC.

(F) IT IS FURTHER FOUND THAT SUCH STATE THEATRE INSTITUTE SHOULD ESTABLISH AFFILIATIONS WITH PUBLIC AND PRIVATE SCHOOLS, INSTITUTIONS OF HIGHER LEARNING AND ARTS CENTERS TO ASSURE DELIVERY OF ITS SERVICES TO YOUNG PEOPLE THROUGHOUT THE STATE.

3. IT IS FURTHER FOUND THAT A PERFORMING ARTS CENTER DESIGNED TO SERVE PUBLIC PURPOSES AND USES IN THE CAPITAL CITY AND THE SURROUNDING REGION AS WELL AS STATE PURPOSES AND USES HAS BEEN CONSTRUCTED AS A PART OF THE NELSON A. ROCKEFELLER EMPIRE STATE PLAZA IN THE CITY OF ALBANY. THE PERFORMING ARTS CENTER IS THE ELLIPSOIDAL STRUCTURE WHICH HOUSES THE NINE HUNDRED EIGHTY-SIX SEAT AUDITORIUM AND THE FOUR HUNDRED SIXTY SEAT RECITAL HALL AND OTHER FACILITIES DESCRIBED IN THIS ARTICLE.

4. IT IS FURTHER FOUND THAT THE PERFORMING ARTS CENTER, LOCATED AT THE CAPITAL, SHOULD SYMBOLIZE THE PREEMINENCE OF THE PERFORMING ARTS IN NEW YORK STATE AND BE A VISIBLE COMMITMENT OF THE STATE TO PIONEERING AND SUPPORTING THE MAINTENANCE AND DEVELOPMENT OF THE ARTS WHILE MAKING PROGRAMS MORE ACCESSIBLE TO THE GENERAL PUBLIC.

5. IT IS FURTHER FOUND THAT THE MOST EFFECTIVE ADMINISTRATION OF SUCH A FACILITY REQUIRES EXPERT AND EXPERIENCED MANAGEMENT AND A MECHANISM TO INVOLVE A BROAD SPECTRUM OF CITIZEN AND CORPORATE SPONSORS, PERFORMING ARTS GROUPS AND VOLUNTEERS.

6. IT IS THEREFORE FOUND AND DECLARED THAT THESE OBJECTIVES CAN BEST BE MET THROUGH THE ESTABLISHMENT OF A CORPORATION TO BE KNOWN AS THE NELSON A. ROCKEFELLER EMPIRE STATE PLAZA PERFORMING ARTS CENTER CORPORATION AND THAT THE POWERS AND DUTIES OF THE CORPORATION DEFINED IN THIS ARTICLE ARE NECESSARY AND PROPER FOR THE ACHIEVEMENT OF THESE ENDS.

S 9.03. DEFINITIONS. AS USED OR REFERRED TO IN THIS ARTICLE, UNLESS A DIFFERENT MEANING CLEARLY APPEARS FROM THE CONTEXT:

1. THE TERM "CITY" SHALL MEAN THE CITY OF ALBANY.

2. THE TERM "COUNTY" SHALL MEAN THE COUNTY OF ALBANY.

3. THE TERM "NELSON A. ROCKEFELLER EMPIRE STATE PLAZA" SHALL MEAN THE GOVERNMENTAL COMPLEX CONSTRUCTED AND OCCUPIED BY THE STATE OF NEW YORK IN THE CITY OF ALBANY UNDER AN AGREEMENT WITH THE COUNTY OF ALBANY PURSUANT TO CHAPTER ONE HUNDRED FIFTY-TWO OF THE LAWS OF NINETEEN HUNDRED SIXTY-FOUR.

4. THE TERM "PERFORMING ARTS CENTER" SHALL MEAN THE ELLIPSOIDAL STRUCTURE ERECTED AND EQUIPPED FOR PERFORMING ARTS AND OTHER AUDIENCE-RELATED EVENTS; TOGETHER WITH ADJOINING ASSOCIATED SPACES AT OTHER LEVELS FOR STORAGE, REHEARSAL LOUNGES AND DRESSING ROOMS, AND AUXILIARY SPACE FACILITIES IN THE SAME AREA TO BE USED FOR RELATED PURPOSES.

5. THE TERM "MANAGE" SHALL MEAN THE SELECTING, SCHEDULING, PROMOTING AND CONDUCTING OF EVENTS, ESTABLISHING AND COLLECTING RATES AND CHARGES FOR USE OF THE FACILITIES, ADOPTING RULES AND REGULATIONS GOVERNING THE USE OF THE FACILITIES, ARRANGING FOR THE SALE OF TICKETS, AND TAKING ALL NECESSARY AND APPROPRIATE STEPS FOR THE SUCCESSFUL CONDUCT OF THE EVENTS IN THE PERFORMING ARTS CENTER FACILITY UNDER THE JURISDICTION OF THE CORPORATION.

6. "AGENCY" MEANS ANY STATE BOARD, BODY, BUREAU, COMMISSION, COUNCIL, DEPARTMENT, PUBLIC AUTHORITY, PUBLIC CORPORATION, DIVISION, OFFICE OR OTHER GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE STATE.

7. "CORPORATION" MEANS THE NELSON A. ROCKEFELLER EMPIRE STATE PLAZA PERFORMING ARTS CENTER CORPORATION CREATED PURSUANT TO SECTION 9.05 OF THIS ARTICLE.

S 9.05. NELSON A. ROCKEFELLER EMPIRE STATE PLAZA PERFORMING ARTS CENTER CORPORATION. 1. A CORPORATION TO BE KNOWN AS THE NELSON A. ROCKEFELLER EMPIRE STATE PLAZA PERFORMING ARTS CENTER CORPORATION IS HEREBY CREATED. SUCH CORPORATION SHALL BE A BODY CORPORATE AND POLITIC CONSTITUTING A PUBLIC BENEFIT CORPORATION AND ITS EXISTENCE SHALL COMMENCE UPON THE APPOINTMENT OF THE MEMBERS OF THE BOARD OF DIRECTORS AS PROVIDED IN THIS SECTION. IT SHALL HAVE THE POWERS AND PRIVILEGES OF A CORPORATION AND ALL OF ITS BUSINESS SHALL BE TRANSACTED, ALL FUNDS INVESTED, ALL WARRANTS FOR MONEY DRAWN AND PAYMENTS MADE, AND ALL CASH AND SECURITIES AND OTHER PERSONAL AND REAL PROPERTY SHALL BE HELD UNDER ITS CORPORATE NAME.

2. THE CORPORATION SHALL CONSIST OF A BOARD OF DIRECTORS COMPRISED OF A CHAIRPERSON AND TWENTY OTHER MEMBERS. THE CHAIRPERSON OF THE BOARD SHALL BE DESIGNATED BY THE GOVERNOR. THE BOARD OF DIRECTORS SHALL CONSIST OF THE STATE COMMISSIONER OF GENERAL SERVICES; TWELVE MEMBERS TO BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE GOVERNOR, INCLUDING THREE MEMBERS REPRESENTING THE MAINTENANCE AND DEVELOPMENT OF THEATRE AND EDUCATION FOR CHILDREN AND YOUNG PEOPLE; TWO MEMBERS TO BE APPOINTED AND SERVE AT THE PLEASURE OF THE TEMPORARY PRESIDENT OF THE SENATE; TWO MEMBERS TO BE APPOINTED AND SERVE AT THE PLEASURE OF THE SPEAKER OF THE ASSEMBLY; A MEMBER TO BE APPOINTED AND SERVE AT THE PLEASURE OF THE MINORITY LEADER OF THE ASSEMBLY; A MEMBER TO BE APPOINTED AND SERVE AT THE PLEASURE OF THE MINORITY LEADER OF THE SENATE; A MEMBER TO BE APPOINTED AND SERVE AT THE PLEASURE OF THE MAYOR OF THE CITY OF ALBANY; AND A MEMBER TO BE APPOINTED AND SERVE AT THE PLEASURE OF THE COUNTY EXECUTIVE OF THE COUNTY OF ALBANY. THE MEMBERS FIRST APPOINTED BY THE GOVERNOR, THE SENATE, THE ASSEMBLY, THE CITY AND THE COUNTY SHALL SERVE FOR A PERIOD OF TWO YEARS; THEIR SUCCESSORS AND ALL OTHER APPOINTED MEMBERS SHALL SERVE FOR A FOUR-YEAR TERM AND EACH MEMBER SHALL CONTINUE TO SERVE UNTIL THE APPOINTMENT AND QUALIFICATION OF HIS OR HER SUCCESSOR. VACANCIES AMONG MEMBERS OTHERWISE THAN BY THE EXPIRATION OF TERM SHALL BE FILLED BY THE APPOINTING AUTHORITY FOR THE UNEXPIRED TERM. THE CHAIRPERSON AND OTHER MEMBERS OF THE BOARD SHALL NOT BE ENTITLED TO

COMPENSATION FOR THEIR SERVICES BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES. A MAJORITY OF THE CHAIRPERSON AND OTHER APPOINTED MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF THE BUSINESS OF THE CORPORATION. THE BOARD SHALL ELECT A SECRETARY, AND MAY ELECT SUCH OTHER OFFICERS AS IT SHALL DEEM NECESSARY, AND MAY DELEGATE BY THE RESOLUTION OF THE BOARD TO THE CHAIRPERSON, ONE OR MORE OF ITS MEMBERS OR TO ITS OFFICERS, AGENTS AND EMPLOYEES SUCH POWERS AND DUTIES AS IT MAY DEEM PROPER.

3. NO MEMBER OF THE BOARD OF DIRECTORS OR OFFICER OF THE CORPORATION SHALL BE DISQUALIFIED FROM HOLDING ANY OTHER PUBLIC OFFICE OR EMPLOYMENT, NOR SHALL HE OR SHE FORFEIT ANY SUCH OFFICE OR EMPLOYMENT BY REASON OF HIS OR HER APPOINTMENT PURSUANT TO THIS SECTION, NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW, ORDINANCE, CITY OR COUNTY CHARTER.

4. THE CORPORATION SHALL CONTINUE UNTIL ALL ITS LIABILITIES HAVE BEEN MET OR OTHERWISE DISCHARGED AND UNTIL ITS EXISTENCE SHALL HAVE BEEN TERMINATED BY LAW. UPON THE TERMINATION OF THE EXISTENCE OF THE CORPORATION, ALL OF ITS RIGHTS AND PROPERTY SHALL PASS TO AND BE VESTED IN THE STATE.

5. THE CORPORATION SHALL HOLD REGULAR MEETINGS AT LEAST QUARTERLY AND SHALL HOLD SPECIAL MEETINGS ON THE CALL OF THE CHAIRPERSON OR ANY THREE MEMBERS UPON GIVING NOTICE THEREOF TO ALL MEMBERS OF THE CORPORATION AT LEAST FORTY-EIGHT HOURS IN ADVANCE. ALL MEETINGS SHALL BE HELD AND NOTICES FILED IN ACCORDANCE WITH THE OPEN MEETINGS LAW.

6. THERE SHALL BE AN EXECUTIVE DIRECTOR OF THE CENTER APPOINTED BY THE CORPORATION.

7. THE EXECUTIVE DIRECTOR SHALL BE THE CHIEF EXECUTIVE OFFICER OF THE CENTER, AND SHALL, SUBJECT TO THE DIRECTION OF THE CORPORATION, HAVE GENERAL SUPERVISION OVER THE ADMINISTRATION AND OPERATION OF CENTER PROJECTS AND FACILITIES AND SHALL APPOINT AND REMOVE ALL OTHER OFFICERS AND EMPLOYEES OF THE CENTER AS PRESCRIBED BY THE RULES AND REGULATIONS TO BE ENACTED BY THE CORPORATION. THE EXECUTIVE DIRECTOR SHALL ATTEND ALL CORPORATION MEETINGS AND SHALL HAVE THE RIGHT TO SPEAK AT SUCH MEETINGS, BUT SHALL HAVE NO VOTE.

8. THE EXECUTIVE DIRECTOR MAY BE REMOVED FROM OFFICE BY A MAJORITY VOTE OF THE CORPORATION.

S 9.07. PURPOSE OF THE CORPORATION. THE CORPORATION SHALL HAVE SOLE DISCRETION IN AND THE RESPONSIBILITY FOR THE MANAGEMENT OF THE PERFORMING ARTS CENTER FACILITIES IN PROVIDING SPACE AND DEVELOPING PROGRAMS FOR CIVIC, GOVERNMENTAL, PERFORMING ARTS AND OTHER CULTURAL AND PUBLIC EVENTS, AND RELATED USES FOR THE BENEFIT OF THE CITIZENS OF NEW YORK STATE AND THE DEPARTMENTS AND AGENCIES OF STATE GOVERNMENT.

S 9.09. GENERAL POWERS AND DUTIES OF THE CORPORATION. FOR CARRYING OUT ITS PURPOSES, THE CORPORATION SHALL HAVE POWER:

1. TO SUE AND BE SUED;

2. TO HAVE A SEAL AND ALTER THE SAME AT PLEASURE;

3. TO ACQUIRE, HOLD AND DISPOSE OF PERSONAL PROPERTY FOR ITS CORPORATE PURPOSES, INCLUDING THE POWER TO PURCHASE, ALTER, INSTALL AND DISPOSE OF FIXTURES, INSTALLATIONS AND EQUIPMENT USED IN CONNECTION WITH THE MEETING CENTER, PROVIDED HOWEVER, THAT ANY SUCH ACTION THAT ALTERS THE DESIGN OR STRUCTURE OF THE CENTER AND ANY FIXTURE, INSTALLATION OR EQUIPMENT WHICH MAY BE DISPOSED OF VALUED IN EXCESS OF FIVE THOUSAND DOLLARS IS SUBJECT TO A RESOLUTION WHICH MUST BE APPROVED BY A MAJORITY OF THE BOARD OF DIRECTORS AT A MEETING AND SUCH RESOLUTION MUST BE APPROVED BY THE DIRECTOR OF THE BUDGET;

4. TO MAKE AND ALTER BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS, WHICH BYLAWS AND ALL THE AMENDMENTS THERETO, DULY CERTIFIED BY THE SECRETARY OF THE CORPORATION, SHALL BE FILED IN THE OFFICE OF THE CORPORATION AND WITH THE SECRETARY OF STATE;

5. TO LEASE OR SUBLEASE THE MEETING CENTER FACILITIES AND OTHER REAL PROPERTY FROM THE STATE AND OTHERS FOR SUCH TERMS AND ON SUCH CONDITIONS AS MAY BE AGREED UPON AND, SUBJECT TO THE PROVISIONS OF SUCH LEASE OR LEASES, TO SUBLEASE SAID PROPERTY TO OTHERS;

6. TO APPOINT OFFICERS, AGENTS AND EMPLOYEES AND TO PRESCRIBE THEIR QUALIFICATIONS AND TO FIX THEIR COMPENSATION;

7. SUBJECT TO TERMS AND LIMITATIONS OF LEASES OR CONTRACTS FOR USE OF THE PERFORMING ARTS CENTER FACILITIES, TO MANAGE AND OPERATE SUCH FACILITIES IN RESPECTS NECESSARY OR CONVENIENT FOR ACCOMPLISHMENT OF THE CORPORATION'S PURPOSES; TO CONTRACT FOR THE OPERATION OR MAINTENANCE OF ANY PARTS THEREOF AND FOR SERVICES TO BE PERFORMED; TO RENT PARTS THEREOF AND GRANT CONCESSIONS; AND TO FIX AND COLLECT RENTAL, FEES AND OTHER CHARGES ON SUCH TERMS AND CONDITIONS AS IT MAY DETERMINE;

8. TO MAKE ALL CONTRACTS, INCLUDING MANAGEMENT CONTRACTS, NECESSARY AND CONVENIENT TO CARRY OUT ITS PURPOSES, AND TO EXECUTE ALL INSTRUMENTS NECESSARY AND CONVENIENT PROVIDED, HOWEVER, THAT ANY SUCH MANAGEMENT CONTRACTS SHALL BE SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET;

9. TO USE THE SERVICES OF STATE, CITY AND COUNTY EMPLOYEES AND AGENTS AND UTILIZE THEIR FACILITIES, PAYING THE CORPORATION'S AGREED UPON PROPORTION OF THE COMPENSATION OR COSTS THEREOF;

10. TO ACCEPT GIFTS, GRANTS, LOANS OR CONTRIBUTIONS FROM THE UNITED STATES, THE STATE OF NEW YORK, OR ANY AGENCY OR INSTRUMENTALITY OF EITHER OF THEM, OR THE CITY, THE COUNTY OR AN INDIVIDUAL, FOUNDATION, FIRM OR CORPORATION, BY BEQUEST OR OTHERWISE, AND TO EXPEND THE PROCEEDS FOR ANY PURPOSES OF THE CORPORATION;

11. ALL CONTRIBUTIONS OF REAL OR PERSONAL PROPERTY MADE TO THE FUND WHETHER BY GIFT, DEVISE OR BEQUEST SHALL QUALIFY AS DEDUCTIONS IN COMPUTING THE NET TAXABLE INCOME OF THE DONOR FOR THE PURPOSES OF ANY INCOME TAX IMPOSED BY THE STATE OR ANY POLITICAL SUBDIVISION THEREOF;

12. TO SUBMIT REPORTS TO THE GOVERNOR, CHAIRMAN OF THE SENATE FINANCE COMMITTEE, THE CHAIRMAN OF THE ASSEMBLY WAYS AND MEANS COMMITTEE AND THE STATE COMPTROLLER IN THE MANNER SET FORTH IN SECTION 9.15 OF THIS ARTICLE; AND

13. TO DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE FUNCTIONS, POWERS AND DUTIES EXPRESSLY SET FORTH IN THIS ARTICLE.

S 9.11. COOPERATION OF THE OFFICE OF GENERAL SERVICES. THE STATE OFFICE OF GENERAL SERVICES SHALL HAVE RESPONSIBILITY FOR THE CAPITAL FACILITIES OF THE PERFORMING ARTS CENTER AS WELL AS THE CAPITAL FACILITIES FORMERLY OWNED AND OPERATED BY THE NEW YORK STATE THEATRE INSTITUTE AND SHALL PROVIDE ALL SUPPORT NECESSARY TO ASSURE AND PRESERVE THE SAFETY, EFFICIENCY, STRUCTURAL SOUNDNESS AND AESTHETIC APPEARANCE OF THESE FACILITIES.

S 9.13. OBJECTIVES. THE NELSON A. ROCKEFELLER EMPIRE STATE PLAZA PERFORMING ARTS CENTER CORPORATION SHALL:

1. ESTABLISH A THEATRE AND EDUCATION PROGRAM FOR THE CHILDREN, YOUTH AND EDUCATORS OF NEW YORK STATE, TO INCLUDE THE PERFORMING AND VISUAL MEDIA WHILE EMPHASIZING DIVERSITY, MULTI-CULTURALISM AND ASSURING ACCESS TO AND INVOLVEMENT OF THE DISABLED;

2. OFFER NEW YORK STATE ELEMENTARY AND SECONDARY SCHOOL TEACHERS IN-SERVICE TRAINING IN THE USE OF THEATRE ARTS AS A COMMUNITY RESOURCE,

AS A COMPLEMENT TO ALL OTHER AREAS OF EDUCATION, AND AS AN EXTENSION OF CLASSROOM CURRICULUM;

3. OFFER ACCREDITED INTERNSHIPS IN THEATRE ARTS EDUCATION TO STUDENTS BEING TRAINED AS TEACHERS AND ARTISTS BY BOTH PUBLIC AND PRIVATE INSTITUTIONS OF HIGHER LEARNING;

4. OFFER OPPORTUNITIES FOR HIGH SCHOOL AND COLLEGE LEVEL STUDENTS FROM PRIVATE AND PUBLIC INSTITUTIONS OF HIGHER LEARNING TO PARTICIPATE IN THE THEATRE, EDUCATION AND ARTS MANAGEMENT ASPECTS OF THE CORPORATION THROUGH A PRACTICUM;

5. OFFER GUIDANCE AND CONSULTATION ON ARTS AND EDUCATION PROGRAMS IN PUBLIC AND PRIVATE ELEMENTARY AND SECONDARY SCHOOLS AND INSTITUTIONS OF HIGHER LEARNING AND COMMUNITY CENTERS THROUGHOUT THE STATE;

6. SERVE AS A PROFESSIONAL THEATRE COMPANY AND AN EDUCATIONAL RESOURCE CENTER FOR CHILDREN AND YOUNG PEOPLE;

7. OFFER TOURING PROGRAMS IN THEATRE AND ASSOCIATED EDUCATION PROGRAMS FOR CHILDREN AND YOUNG PEOPLE IN PUBLIC AND PRIVATE ELEMENTARY AND SECONDARY SCHOOLS THROUGHOUT THE STATE; AND

8. DEVELOP THEATRE AUDIENCES FOR THE FUTURE BY STIMULATING CHILDREN AND YOUNG PEOPLE WHO HAVE HAD LITTLE OR NO EXPERIENCE IN THE ARTS.

S 9.15. ANNUAL REPORT. FOR THE PURPOSES OF FURNISHING THE STATE WITH SYSTEMATIC INFORMATION REGARDING ITS STATUS AND ACTIVITIES, THE CORPORATION SHALL SUBMIT TO THE GOVERNOR, THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE AND THE STATE COMPTROLLER, WITHIN NINETY DAYS AFTER THE END OF THE CORPORATION'S FISCAL YEAR, A COMPLETE AND DETAILED REPORT SETTING FORTH: (1) ITS OPERATIONS AND ACCOMPLISHMENTS; (2) ITS RECEIPTS AND DISBURSEMENTS, OR REVENUES AND EXPENSES, DURING SUCH FISCAL YEAR, IN ACCORDANCE WITH CATEGORIES OR CLASSIFICATIONS ESTABLISHED BY THE COMMISSION FOR ITS OWN OPERATING AND CAPITAL OUTLAY PURPOSES; AND (3) ITS ASSETS AND LIABILITIES AT THE END OF ITS FISCAL YEAR, INCLUDING THE STATUS OF RESERVE, SPECIAL OR OTHER FUNDS AND INCLUDING THE RECEIPTS AND PAYMENTS OF THESE FUNDS.

S 9.17. TAX EXEMPTIONS. IT IS HEREBY FOUND, DETERMINED AND DECLARED THAT THE CREATION OF THE CORPORATION AND THE CARRYING OUT OF ITS CORPORATE PURPOSES IS IN ALL RESPECTS FOR THE BENEFIT OF THE RESIDENTS OF THE CITY AND COUNTY AND THE PEOPLE OF THE STATE OF NEW YORK AND IS A PUBLIC PURPOSE, AND THE CORPORATION SHALL BE REGARDED AS PERFORMING A GOVERNMENTAL FUNCTION IN THE EXERCISE OF THE POWERS CONFERRED UPON IT BY THIS ARTICLE AND SHALL BE REQUIRED TO PAY NO TAXES OR ASSESSMENTS UPON ANY OF THE PROPERTY ACQUIRED BY OR UNDER ITS JURISDICTION, CONTROL OR SUPERVISION OR UPON ITS ACTIVITIES.

S 9.19. EXAMINATION OF CORPORATION RECORDS BY THE STATE COMPTROLLER. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE STATE COMPTROLLER SHALL, FROM TIME TO TIME BUT NOT LESS THAN ONCE IN EVERY FIVE YEARS, EXAMINE THE BOOKS AND ACCOUNTS OF THE CORPORATION INCLUDING ITS RECEIPTS, DISBURSEMENTS, CONTRACTS, LEASES, SINKING FUNDS, INVESTMENTS AND ANY OTHER MATTERS RELATING TO ITS FINANCIAL STANDING.

S 9.21. INCONSISTENT PROVISIONS IN OTHER ACTS SUPERSEDED. INSOFAR AS THE PROVISIONS OF THIS ARTICLE ARE INCONSISTENT WITH THE PROVISIONS OF ANY OTHER ACT, GENERAL OR SPECIAL OR OF ANY LOCAL LAW OF THE CITY OR COUNTY, THE PROVISIONS OF THIS ARTICLE SHALL BE CONTROLLING.

S 9.23. PROPOSED BUDGET. THE CORPORATION SHALL ANNUALLY SUBMIT A PROPOSED BUDGET TO THE DIRECTOR OF THE BUDGET IN SEPTEMBER AT THE SAME TIME AS BUDGET REQUESTS ARE REQUIRED TO BE SUBMITTED BY STATE DEPARTMENTS. THE PROPOSED BUDGET SHALL CONTAIN AN OPERATING BUDGET, AN EQUIPMENT BUDGET AND AN ESTIMATE OF REVENUES. IN ADDITION, THE CORPORATION

SHALL SUBMIT AN EXPENDITURE PLAN SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET PRIOR TO THE ALLOCATION OF ANY APPROPRIATION. SUCH EXPENDITURE PLAN SHALL PROVIDE INFORMATION ON SUCH FUNDS AND IN SUCH DETAIL AS MAY BE REQUIRED BY THE DIRECTOR OF THE BUDGET, AND ANY SUBSEQUENT AMENDMENT TO SUCH PLAN SHALL REQUIRE THE PRIOR APPROVAL OF THE DIRECTOR OF THE BUDGET.

S 9.25. STATE AGENCY. FOR PURPOSES OF SECTIONS SEVENTY-THREE, SEVENTY-THREE-A AND SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW, THE NELSON A. ROCKEFELLER EMPIRE STATE PLAZA PERFORMING ARTS CENTER CORPORATION IS A STATE AGENCY, THE OFFICERS, MEMBERS, AND EMPLOYEES OF WHICH ARE SUBJECT TO THE PROVISIONS THEREOF.

S 9.27. SEPARABILITY. IF ANY SECTION, CLAUSE OR PROVISION OF THIS ARTICLE SHALL BE UNCONSTITUTIONAL OR INEFFECTIVE IN WHOLE OR IN PART, TO THE EXTENT THAT IT IS NOT UNCONSTITUTIONAL OR INEFFECTIVE IT SHALL BE VALID AND EFFECTIVE AND NO OTHER SECTION, CLAUSE OR PROVISION SHALL ON ACCOUNT THEREOF BE DEEMED INVALID OR INEFFECTIVE.

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

5. THE CASH BALANCES OF THE ACCOUNTS IN THE NAME OF THE NEW YORK STATE THEATRE INSTITUTE ARE HEREBY TRANSFERRED TO THE PERFORMING ARTS CENTER CORPORATION FUND. SUCH MONEYS SHALL BE IMMEDIATELY AVAILABLE TO THE NELSON A. ROCKEFELLER EMPIRE STATE PLAZA PERFORMING ARTS CENTER CORPORATION FOR ITS EXPENSES, INCLUDING PRODUCTION, TRAVEL, OPERATION, PRINTING, LEASES, AND OTHER NECESSARY EXPENSES IN CARRYING OUT THE PROVISIONS OF ARTICLE NINE OF THE ARTS AND CULTURAL AFFAIRS LAW.

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

S 16. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 17. This act shall take effect immediately.

PART C

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

(i) For ALL students first receiving aid in TWO THOUSAND SIX--TWO THOUSAND SEVEN, two thousand seven--two thousand eight, AND TWO THOUSAND EIGHT--TWO THOUSAND NINE, AND THOSE STUDENTS ENROLLED IN A PROGRAM OF REMEDIAL STUDY APPROVED BY THE COMMISSIONER, WHO FIRST RECEIVED AID IN TWO THOUSAND SIX--TWO THOUSAND SEVEN, and thereafter, and enrolled in four-year or five-year undergraduate programs whose terms are organized in semesters:

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

Least This Many Credits									
With At Least This Grade Point Average	0	1.1	1.2	1.3	2.0	2.0	2.0	2.0	2.0	2.0

(ii) For ALL students first receiving aid in TWO THOUSAND SIX--TWO THOUSAND SEVEN, two thousand seven--two thousand eight, AND TWO THOUSAND EIGHT--TWO THOUSAND NINE, AND THOSE STUDENTS ENROLLED IN A PROGRAM OF REMEDIAL STUDY APPROVED BY THE COMMISSIONER, WHO FIRST RECEIVED AID IN TWO THOUSAND SIX--TWO THOUSAND SEVEN, and thereafter, and enrolled in two-year undergraduate programs whose terms are organized in semesters:

Before Being Certified for This Payment	1	2	3	4	5	6
A Student Must Have Accrued at Least This Many Credits	0	3	9	18	30	45
With at Least This Grade Point Average	0	.5	.75	1.3	2.0	2.0

(iii) For ALL students first receiving aid in TWO THOUSAND SIX--TWO THOUSAND SEVEN, two thousand seven--two thousand eight, AND TWO THOUSAND EIGHT--TWO THOUSAND NINE, AND THOSE STUDENTS ENROLLED IN A PROGRAM OF REMEDIAL STUDY APPROVED BY THE COMMISSIONER, WHO FIRST RECEIVED AID IN TWO THOUSAND SIX--TWO THOUSAND SEVEN, and thereafter, and enrolled in four-year or five-year undergraduate programs whose terms are organized on a trimester basis:

Before Being Certified for This Payment	1	2	3	4	5	6	7	8
A Student Must Have Accrued at Least This Many Credits	0	2	4	9	17	25	33	40
With At Least This Grade Point Average	0	1.1	1.1	1.2	1.2	1.3	2.0	2.0

and,

Before Being Certified	9	10	11	12	13	14	15

for This Payment									
A Student Must Have Accrued at Least This Many Credits	50	60	70	80	90	100	110		
With At Least This Grade Point Average	2.0	2.0	2.0	2.0	2.0	2.0	2.0		

(iv) For ALL students first receiving aid in TWO THOUSAND SIX--TWO THOUSAND SEVEN, two thousand seven--two thousand eight, AND TWO THOUSAND EIGHT--TWO THOUSAND NINE, AND THOSE STUDENTS ENROLLED IN A PROGRAM OF REMEDIAL STUDY APPROVED BY THE COMMISSIONER, WHO FIRST RECEIVED AID IN TWO THOUSAND SIX--TWO THOUSAND SEVEN, and thereafter, and enrolled in two-year undergraduate programs whose terms are organized on a trimester basis:

Before Being Certified for This Payment	1	2	3	4	5	6	7	8	9
A Student Must Have Accrued at Least This Many Credits	0	2	4	9	15	21	30	37	45
With At Least This Grade Point Average	0	.5	.5	.75	.75	1.3	2.0	2.0	2.0

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

(V) FOR STUDENTS FIRST RECEIVING AID IN TWO THOUSAND NINE--TWO THOUSAND TEN, AND THEREAFTER, AND ARE NOT ENROLLED IN A PROGRAM OF REMEDIAL STUDY APPROVED BY THE COMMISSIONER AND ENROLLED IN FOUR-YEAR OR FIVE-YEAR UNDERGRADUATE PROGRAMS WHOSE TERMS ARE ORGANIZED IN SEMESTERS:

BEFORE BEING CERTIFIED FOR THIS PAYMENT	1ST	2ND	3RD	4TH	5TH	6TH	7TH	8TH	9TH	10TH
A STUDENT MUST HAVE ACCRUED AT LEAST THIS MANY CREDITS	0	6	18	30	45	60	75	90	105	120
WITH AT LEAST THIS GRADE	0	1.5	1.8	2.0	2.0	2.0	2.0	2.0	2.0	2.0

POINT AVERAGE

(VI) FOR STUDENTS FIRST RECEIVING AID IN TWO THOUSAND NINE--TWO THOUSAND TEN, AND THEREAFTER, AND ARE NOT ENROLLED IN A PROGRAM OF REMEDIAL STUDY APPROVED BY THE COMMISSIONER AND ENROLLED IN TWO-YEAR UNDERGRADUATE PROGRAMS WHOSE TERMS ARE ORGANIZED IN SEMESTERS:

BEFORE BEING CERTIFIED FOR THIS PAYMENT	1	2	3	4	5	6
A STUDENT MUST HAVE ACCRUED AT LEAST THIS MANY CREDITS	0	6	15	24	39	54
WITH AT LEAST THIS GRADE POINT AVERAGE	0	1.2	1.5	1.8	2.0	2.0

(VII) FOR STUDENTS FIRST RECEIVING AID IN TWO THOUSAND NINE--TWO THOUSAND TEN, AND THEREAFTER, AND ARE NOT ENROLLED IN A PROGRAM OF REMEDIAL STUDY APPROVED BY THE COMMISSIONER, AND ENROLLED IN FOUR-YEAR OR FIVE-YEAR UNDERGRADUATE PROGRAMS WHOSE TERMS ARE ORGANIZED ON A TRIMESTER BASIS:

BEFORE BEING CERTIFIED FOR THIS PAYMENT	1	2	3	4	5	6	7	8
A STUDENT MUST HAVE ACCRUED AT LEAST THIS MANY CREDITS	0	4	10	18	28	38	48	58
WITH AT LEAST THIS GRADE POINT AVERAGE	0	1.3	1.5	1.7	1.8	2.0	2.0	2.0

AND,

BEFORE BEING CERTIFIED FOR THIS PAYMENT	9	10	11	12
A STUDENT MUST HAVE ACCRUED AT LEAST THIS MANY CREDITS	68	78	88	98
WITH AT LEAST	2.0	2.0	2.0	2.0

THIS GRADE POINT AVERAGE									

(VIII) FOR STUDENTS FIRST RECEIVING AID IN TWO THOUSAND NINE--TWO THOUSAND TEN, AND THEREAFTER, AND ARE NOT ENROLLED IN A PROGRAM OF REMEDIAL STUDY APPROVED BY THE COMMISSIONER, AND ENROLLED IN TWO-YEAR UNDERGRADUATE PROGRAMS WHOSE TERMS ARE ORGANIZED ON A TRIMESTER BASIS:

BEFORE BEING CERTIFIED FOR THIS PAYMENT	1	2	3	4	5	6	7	8	9
A STUDENT MUST HAVE ACCRUED AT LEAST THIS MANY CREDITS	0	2	6	12	20	28	38	48	58
WITH AT LEAST THIS GRADE POINT AVERAGE	0	1.2	1.4	1.5	1.6	1.8	2.0	2.0	2.0

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

D. FOR PURPOSES OF PARAGRAPH C OF THIS SUBDIVISION, STUDENTS ENROLLED IN A PROGRAM OF REMEDIAL STUDY SHALL MEAN STUDENTS WHO ARE ENROLLED IN REMEDIAL COURSES EQUIVALENT TO AT LEAST SIX CREDITS IN THEIR INITIAL TERM AND AT LEAST TWELVE CREDITS IN THEIR FIRST YEAR AND WHOSE SCORES ON RECOGNIZED COLLEGE PLACEMENT EXAMS INDICATE THE NEED FOR REMEDIATION.

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

PART D

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

B. A STUDENT WHO IS IN DEFAULT ON A STUDENT LOAN MADE UNDER THE FEDERAL FAMILY EDUCATION LOAN PROGRAM OR THE WILLIAM D. FORD DIRECT LOAN PROGRAM SHALL BE INELIGIBLE TO RECEIVE ANY AWARD OR LOAN PURSUANT TO THIS ARTICLE UNTIL THE STUDENT CURES THE DEFAULT STATUS PURSUANT TO FEDERAL LAW AND REGULATION.

C. A STUDENT WHO IS IN DEFAULT ON A NON-FEDERAL STUDENT LOAN THAT WAS MADE OR GUARANTEED BY THE CORPORATION SHALL BE INELIGIBLE TO RECEIVE ANY AWARD OR LOAN PURSUANT TO THIS ARTICLE UNTIL THE STUDENT CURES THE DEFAULT STATUS PURSUANT TO REGULATIONS PROMULGATED BY THE CORPORATION.

D. A STUDENT WHO HAS FAILED TO COMPLY WITH THE TERMS OF ANY SERVICE CONDITION IMPOSED BY AN AWARD MADE PURSUANT TO THIS ARTICLE OR HAS FAILED TO REPAY AN AWARD MADE PURSUANT TO THIS ARTICLE, AS REQUIRED BY PARAGRAPH A OF SUBDIVISION FOUR OF SECTION SIX HUNDRED SIXTY-FIVE OF THIS ARTICLE, SHALL BE INELIGIBLE TO RECEIVE ANY AWARD OR LOAN PURSUANT TO THIS ARTICLE SO LONG AS SUCH FAILURE TO COMPLY OR REPAY CONTINUES.

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

PART E

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

2. Duration. No undergraduate shall be eligible for more than four academic years of study, or five academic years if the program of study normally requires five years. Students enrolled in a program of remedial study, approved by the commissioner in an institution of higher education and intended to culminate in a degree in undergraduate study shall, for purposes of this section, be considered as enrolled in a program of study normally requiring five years. An undergraduate student enrolled in an eligible two year program of study approved by the commissioner shall be eligible for no more than three academic years of study. [No graduate student shall be eligible for more than four academic years of study provided, however, that no graduate student shall be eligible for more than one degree program at the master's, first professional or doctorate level. No student shall be eligible for a total of more than the equivalent of eight years of combined undergraduate and graduate study.] Any semester, quarter, or term of attendance during which a student receives any award under this article, after the effective date of the former scholar incentive program and prior to academic year nineteen hundred eighty-nine--nineteen hundred ninety, shall be counted toward the maximum term of eligibility for tuition assistance under this section, except that any semester, quarter or term of attendance during which a student received an award pursuant to section six hundred sixty-six of this [article] SUBPART shall be counted as one-half of a semester, quarter or term, as the case may be, toward the maximum term of eligibility under this section. Any semester, quarter or term of attendance during which a student received an award pursuant to section six hundred sixty-seven-a of this [article] SUBPART shall not be counted toward the maximum term of eligibility under this section.

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

S 3. Paragraph a of subdivision 5 of section 663 of the education law is REPEALED.

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

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

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

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

S 6. The opening paragraph of subparagraph 1 of paragraph b of subdivision 3 of section 663 of the education law, as amended by chapter 101 of the laws of 1992, is amended to read as follows:

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

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

S 8. This act shall take effect July 1, 2009.

PART F

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

1. Income defined. Except as otherwise provided in this section, "income" shall be the total of the combined net taxable income AND INCOME FROM PENSIONS OF NEW YORK STATE, LOCAL GOVERNMENTS AND THE FEDERAL GOVERNMENT of the applicant, the applicant's spouse, and the applicant's parents as reported in New York state income tax returns for the calendar year next preceding the beginning of the school year for which application for assistance is made, except that any amount received by an applicant as a scholarship at an educational institution or as a fellowship grant, including the value of contributed services and accommodations, shall not be included within the definition of "income" for the purposes of this article. The term "parent" shall include birth parents, stepparents, adoptive parents and the spouse of an adoptive parent. Income, if not a whole dollar amount, shall be assumed to be equal to the next lowest whole dollar amount. Any change in the status of an applicant with regard to the persons responsible for the applicant's support occurring after the beginning of any semester shall not be considered to change the applicant's award for that semester.

S 2. This act shall take effect July 1, 2009.

PART G

Section 1. Subdivisions 5 and 6 of section 355 of the education law, subdivision 5 as added by chapter 552 of the laws of 1985, paragraph a of subdivision 5 as amended by chapter 682 of the laws of 2007, paragraph c of subdivision 5 as added by chapter 103 of the laws of 1989, paragraph d of subdivision 5 as added by chapter 537 of the laws of 1997, subdivision 6 as amended by chapter 554 of the laws of 1985, are amended to read as follows:

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

state printing and public documents law or any other law to the contrary, the state university trustees are authorized and empowered to:

a. (i) purchase materials, equipment and supplies, including computer equipment and motor vehicles[, where the amount for a single purchase does not exceed twenty thousand dollars], (ii) execute contracts for services, PERMITS, LICENSES, LEASES, and construction contracts [to an amount not exceeding twenty thousand dollars], and (iii) contract for printing [to an amount not exceeding five thousand dollars], without prior approval by any other state officer or agency[, but subject to rules and regulations of the state comptroller not otherwise inconsistent with the provisions of this section and] in accordance with [the] rules [and] OR regulations promulgated by the state university board of trustees after consultation with the state comptroller. [In addition, the trustees, after consultation with the commissioner of general services, are authorized to annually negotiate with the state comptroller increases in the aforementioned dollar limits and the exemption of any articles, categories of articles or commodities from these limits.] Rules [and] OR regulations promulgated by the state university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest available price, including consideration of prices available through other state agencies, consistent with quality requirements, and as will best promote the public interest. Such purchases may be made directly from any contractor pursuant to any contract for commodities let by the office of general services or any other state agency;

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

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

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

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

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

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

(a) Before any contract made for or by any state agency, department, board, officer, commission, or institution, except the office of general services, THE STATE UNIVERSITY OF NEW YORK AND THE CITY UNIVERSITY OF NEW YORK, shall be executed or become effective, whenever such contract exceeds fifty thousand dollars in amount and before any contract made for or by the office of general services shall be executed or become effective, whenever such contract exceeds eighty-five thousand dollars in amount, it shall first be approved by the comptroller and filed in his or her office, provided, however, that the comptroller shall make a final written determination with respect to approval of such contract within ninety days of the submission of such contract to his or her office unless the comptroller shall notify, in writing, the state agency, department, board, officer, commission, or institution, prior to the expiration of the ninety day period, and for good cause, of the need for an extension of not more than fifteen days, or a reasonable period of time agreed to by such state agency, department, board, officer, commission, or institution and provided, further, that such written determination or extension shall be made part of the procurement record pursuant to paragraph f of subdivision one of section one hundred sixty-three of this chapter.

3. A contract or other instrument wherein the state or any of its officers, agencies, boards or commissions OTHER THAN THE STATE UNIVERSITY OF NEW YORK agrees to give a consideration other than the payment of money, when the value or reasonably estimated value of such consideration exceeds ten thousand dollars, shall not become a valid enforceable contract unless such contract or other instrument shall first be approved by the comptroller and filed in his office.

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

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

commodities through the office of general services' centralized contracts, pursuant to the provisions of section one hundred four of the general municipal law. The commissioner is authorized to permit any county extension service association as authorized under subdivision eight of section two hundred twenty-four of the county law, or any association or other entity as specified in and in accordance with section one hundred nine-a of the general municipal law, OR ANY NON-PROFIT CORPORATION ORGANIZED IN FURTHERANCE OF THE OBJECTS AND PURPOSES OF THE STATE UNIVERSITY OF NEW YORK, or any other association or entity as specified in state law, to make purchases of commodities through the office of general services' centralized contracts; provided, however, that such entity so empowered shall accept sole responsibility for any payment due with respect to such purchase; AND PROVIDED FURTHER, HOWEVER, THAT COMMODITIES SO PURCHASED BY A NON-PROFIT CORPORATION ORGANIZED IN FURTHERANCE OF THE OBJECTS AND PURPOSES OF THE STATE UNIVERSITY OF NEW YORK SHALL NOT BE USED DIRECTLY OR INDIRECTLY BY A FOR-PROFIT CORPORATION OR OTHER ENTITY WHICH CONTRACTS WITH THE NON-PROFIT CORPORATION, NOR SHALL SUCH COMMODITIES SO PURCHASED BY SUCH NON-PROFIT CORPORATION BE OFFERED FOR RESALE.

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

e. Any officer, body or agency of a political subdivision as defined in section one hundred of the general municipal law or a district therein, may make purchases of services through the office of general services' centralized contracts for services, subject to the provisions of section one hundred four of the general municipal law. The commissioner may permit and prescribe the conditions for the purchase of services through the office of general services' centralized contracts for services by any public authority or public benefit corporation of the state including the port authority of New York and New Jersey, OR ANY NON-PROFIT CORPORATION ORGANIZED IN FURTHERANCE OF THE OBJECTS AND PURPOSES OF THE STATE UNIVERSITY OF NEW YORK; PROVIDED, HOWEVER, THAT SERVICES SO PURCHASED BY A NON-PROFIT CORPORATION ORGANIZED IN FURTHERANCE OF THE OBJECTS AND PURPOSES OF THE STATE UNIVERSITY OF NEW YORK SHALL NOT BE USED DIRECTLY OR INDIRECTLY BY A FOR-PROFIT CORPORATION OR OTHER ENTITY WHICH CONTRACTS WITH THE NON-PROFIT ORGANIZATION. The commissioner is authorized to permit any public library, association library, library system, cooperative library system, the New York Library Association, and the New York State Association of Library Boards or any other library except those which are operated by for profit entities, to make purchases of services through the office of general services' centralized contracts; provided, however, that such entity so empowered shall accept sole responsibility for any payment due with respect to such purchase.

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

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

a. Notwithstanding section one hundred sixty-three of the state finance law AND SECTION SIXTY-THREE OF THE EXECUTIVE LAW, authorize [contracts for] a state university health care facility [for participation] TO PARTICIPATE in managed care networks and other joint and cooperative arrangements with public, non-profit or business entities [including entering into a maximum of twenty network arrangements per year,] as partners, JOINT VENTURERS, MEMBERS OF LIMITED LIABILITY CORPO-

RATIONS, members of non-profit corporations and shareholders of business corporations, and FOR the provision of management and administrative services by or for state university. Any contract for the provision of management services shall be subject to any provision of the public health law and health regulations applicable to the state university as a health care provider, including any review by the commissioner of health pursuant to 10 NYCRR section 405.3(f). In addition, the commissioner of health shall provide for public comment within thirty days of a submission of any management contract required to be reviewed pursuant to regulation. The trustees may also authorize contracts, including [capitation] RISK-SHARING contracts, for a state university health care facility for the provision of general comprehensive and specialty health care services, directly or through contract with other service providers or entities, including state university employees or entities comprised thereof. Contracts authorized hereunder shall be:

(1) consistent with trustee guidelines respecting all terms and conditions necessary and appropriate for managed care NETWORKS and other [network,] joint or cooperative arrangements, including GUIDELINES GOVERNING THE AWARDING OF SUCH CONTRACTS, guidelines for comparative review where appropriate, AND CONFLICT-OF-INTEREST GUIDELINES;

(2) subject to laws and regulations applicable to the state university as a health care provider, including with respect to rates and certificates of need; and

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

b. (1) Notwithstanding the provisions of [subdivision two of section one hundred twelve of the state finance law relating to the dollar threshold requiring the comptroller's approval of contracts and] subdivision six of section one hundred sixty-three of the state finance law AND SECTION SIXTY-THREE OF THE EXECUTIVE LAW, authorize contracts for the purchase of goods and services for state university health care facilities WITHOUT PRIOR APPROVAL BY ANY OTHER STATE OFFICER OR AGENCY:

[(1)] (A) for any contract [which does not exceed seventy-five thousand dollars] FOR GOODS OR SERVICES OR FOR ANY REVENUE CONTRACT; or

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

[(3) contracts] (2) CONTRACTS authorized hereunder shall be subject to article fourteen of the civil service law and the applicable provisions of agreements between the state and employee organizations pursuant to article fourteen of the civil service law AND SHALL BE CONSISTENT WITH TRUSTEE GUIDELINES GOVERNING THE AWARDING OF SUCH CONTRACTS, COMPARATIVE REVIEW WHERE APPROPRIATE, AND CONFLICT-OF-INTEREST GUIDELINES.

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

c. Authorize contracts for the acquisition BY STATE UNIVERSITY HEALTH CARE FACILITIES OF FACILITIES SUITABLE FOR THE DELIVERY OF HEALTH CARE SERVICES, by purchase, lease, sublease, transfer of jurisdiction or otherwise[, of facilities suitable for the delivery of health care services] and for the construction, repair, maintenance, equipping, rehabilitation or improvement thereof. SUCH FACILITIES MAY BE ACQUIRED IN WHOLE OR IN PART BY STATE UNIVERSITY HEALTH CARE FACILITIES, EITHER DIRECTLY OR THROUGH OWNERSHIP IN A JOINT OR COOPERATIVE ARRANGEMENT AUTHORIZED BY PARAGRAPH A OF THIS SUBDIVISION. Such contracts shall be

[subject to approval by the attorney general as to form and by the director of the budget and the state comptroller] CONSISTENT WITH TRUSTEE GUIDELINES GOVERNING THE AWARDING OF SUCH CONTRACTS, INCLUDING GUIDELINES REQUIRING COMPARATIVE REVIEW WHERE APPROPRIATE AND CONFLICT OF INTEREST GUIDELINES. Contracts under this paragraph shall be funded from any moneys lawfully available for the expenses of the STATE UNIVERSITY health care facilities.

D. THE STATE UNIVERSITY SHALL PROVIDE BY JULY FIFTEENTH OF EACH YEAR TO THE DIRECTOR OF THE BUDGET AND TO THE CHAIRS OF THE SENATE FINANCE COMMITTEE AND THE ASSEMBLY WAYS AND MEANS COMMITTEE A REPORT WHICH SETS FORTH WITH RESPECT TO CONTRACTS ENTERED INTO DURING THE PRIOR YEAR BY STATE UNIVERSITY HEALTH CARE FACILITIES (1) THE AMOUNT, PURPOSE, AND DURATION OF CONTRACTS AND ARRANGEMENTS ENTERED INTO PURSUANT TO PARAGRAPHS A AND C OF THIS SUBDIVISION, (2) A LISTING OF CONTRACTS OVER THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS ENTERED INTO PURSUANT TO CLAUSE (A) OF SUBPARAGRAPH ONE OF PARAGRAPH B OF THIS SUBDIVISION, AND (3) THE AMOUNT, PURPOSE AND DURATION OF CONTRACTS OVER THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS ENTERED INTO PURSUANT TO CLAUSE (B) OF SUBPARAGRAPH ONE OF PARAGRAPH B OF THIS SUBDIVISION.

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

8. To design, construct, acquire, reconstruct, rehabilitate and improve academic buildings, dormitories and other facilities for the state university [in accordance with sections three hundred seventy-five and three hundred seventy-six of this chapter] USING ANY PROJECT DELIVERY METHOD, INCLUDING BUT NOT LIMITED TO, DESIGN, BID, BUILD, DESIGN/BUILD, OR CONSTRUCTION MANAGER AT RISK, THAT WILL ASSIST THE FUND IN FULFILLING ITS PURPOSES UNDER SECTION THREE HUNDRED SEVENTY-TWO OF THIS ARTICLE;

12. To [make] PROCURE and execute contracts, lease agreements, and all other instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes under this article. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, ALL SUCH FUND PROCUREMENTS SHALL BE SUBJECT ONLY TO PROCUREMENT GUIDELINES THAT ARE ANNUALLY ADOPTED BY THE FUND TRUSTEES, WHICH SHALL SUBSTANTIALLY CONFORM TO THE PROVISIONS OF TITLE FOUR OF ARTICLE NINE OF THE PUBLIC AUTHORITIES LAW;

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

8. All contracts which are to be awarded pursuant to this subdivision shall be awarded by public letting OR PURSUANT TO PROCUREMENT GUIDELINES APPROVED ANNUALLY BY THE FUND TRUSTEES AND in accordance with the following provisions, notwithstanding any contrary provision of section ONE HUNDRED TWELVE, one hundred thirty-five, one hundred thirty-six, one hundred thirty-nine or one hundred forty of the state finance law OR ANY OTHER LAW, provided, however, that where the estimated expense of any contract which may be awarded pursuant to this subdivision is less than TWO HUNDRED fifty thousand dollars, a performance bond and a bond for the payment of labor and material may, in the discretion of the fund, not be required, and except that in the discretion of the fund, a contract may be entered into for such purposes without public letting where the estimated expense thereof is less than twenty thousand dollars, or where in the judgment of the fund an emergency condition

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

a. [If contracts are to be publicly let, the] THE letting agency shall advertise the invitation to bid OR THE REQUEST FOR PROPOSALS in a newspaper published in the city of Albany and in such other newspapers as will be most likely in its opinion to give adequate notice to contractors of the work required [and of the invitation to bid] provided, however, that where the estimated expense of any contract which may be awarded pursuant to this subdivision is less than TWO HUNDRED fifty thousand dollars, the letting agency may advertise the invitation to bid solely through the procurement opportunities newsletter published pursuant to section one hundred forty-two of the economic development law. The invitation to bid OR REQUEST FOR PROPOSALS shall contain such information as the letting agency shall deem appropriate [and a statement of the time and place where all bids received pursuant to such notice will be publicly opened and read].

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

c. The invitation to bid, REQUEST FOR PROPOSALS and the contract awarded shall contain such other terms and conditions, and such provisions for penalties, as the letting agency may deem desirable.

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

e. The letting agency shall require such deposits, bonds and security in connection with the submission of bids OR REQUEST FOR PROPOSALS, the award of contracts and the performance of work as it shall determine to be in the public interest and for the protection of the state, the state university, the fund and the letting agency.

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

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

(W) FOR THE PURPOSES OF THIS SECTION, THE TERM "EMPLOYEE" SHALL INCLUDE ANY STUDENT ENROLLED FULL-TIME OR PART-TIME IN A CREDIT BEARING COURSE OFFERED BY A STATE-OPERATED INSTITUTION IN THE STATE UNIVERSITY OF NEW YORK FOR WHICH THERE IS A COURSE REQUIREMENT TO COMPLETE A SUPER-

VISED CLINICAL OR EXPERIENCED-BASED AFFILIATION AT AN AFFILIATE'S SITE, AS SPECIFIED IN A VALID AFFILIATION CONTRACT, INCLUDING BUT NOT LIMITED TO INTERNSHIPS AND SERVICES PROVIDED TO OTHER ENTITIES BY STUDENT VOLUNTEERS AT UNIVERSITY-SPONSORED CLINICS.

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

S 6218. Contracts and purchases. a. Notwithstanding the provisions of [paragraph] SUBDIVISION two of section one hundred twelve [and sections], SECTION one hundred fifteen, SUBDIVISION THREE OF SECTION ONE HUNDRED SIXTY, SECTION one hundred sixty-one[,] AND SECTION one hundred sixty-three [and one hundred seventy-four] of the state finance law and sections three and six of the New York state printing and public documents law or any other law to the contrary, the city university [trustees are] IS authorized and empowered to[:

(i) purchase materials, equipment and supplies, including computer equipment and motor vehicles, where the amount for a single purchase does not exceed twenty thousand dollars, (ii) execute contracts for services to an amount not exceeding twenty thousand dollars, and (iii) contract for printing to an amount not exceeding five thousand dollars,] EXECUTE PROCUREMENT CONTRACTS BOTH FOR COMMODITIES, INCLUDING TECHNOLOGY AND MOTOR VEHICLES AND FOR SERVICES, INCLUDING PRINTING, TECHNOLOGY AND CONSTRUCTION AND CONSTRUCTION RELATED SERVICES, without prior approval by any other state officer or agency, but subject to rules and regulations of the state comptroller not otherwise inconsistent with the provisions of this section and in accordance with the rules and regulations promulgated by the city university board of trustees after consultation with the state comptroller. [In addition, the trustees are authorized to annually negotiate with the state comptroller increases in the aforementioned dollar limits and the exemption of any articles, categories of articles or commodities from these limits. Rules and regulations promulgated by the city university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest possible price.]

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

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

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

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

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

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

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

THE CITY UNIVERSITY IS FURTHER AUTHORIZED AND EMPOWERED TO ESTABLISH GUIDELINES WHICH SHALL (I) INCLUDE REQUIREMENTS THAT PURCHASES AND CONTRACTS AUTHORIZED UNDER THIS SECTION BE AWARDED TO A RESPONSIVE AND RESPONSIBLE OFFEROR; (II) REQUIRE MAXIMUM PRACTICAL COMPETITION; (III) PERMIT AWARD OF THE CONTRACT TO ANY OF THE TIED OFFERORS IF TWO OR MORE BIDS ARE TIED; AND (IV) PERMIT THE REJECTION OF ALL OFFERS IN THE PUBLIC INTEREST.

C. THE CITY UNIVERSITY IS FURTHER AUTHORIZED AND EMPOWERED TO MAKE PURCHASES, WHEN AVAILABLE, THROUGH THE USE OF A CONTRACT LET BY ANY DEPARTMENT, AGENCY OR INSTRUMENTALITY OF THE UNITED STATES GOVERNMENT AND/OR ANY DEPARTMENT, AGENCY, OFFICE, POLITICAL SUBDIVISION, INSTRUMENTALITY OR MUNICIPALITY OF ANY STATE OR STATES.

D. THE CITY UNIVERSITY IS FURTHER AUTHORIZED AND EMPOWERED TO MAKE PURCHASES, WHEN AVAILABLE, OF SURPLUS OR SECOND-HAND COMMODITIES, INCLUDING TECHNOLOGY AND MOTOR VEHICLES, WITHOUT COMPETITIVE BIDDING, FROM ANY DEPARTMENT, AGENCY OR INSTRUMENTALITY OF THE UNITED STATES GOVERNMENT AND/OR ANY DEPARTMENT, AGENCY, OFFICE, POLITICAL SUBDIVISION, INSTRUMENTALITY OR MUNICIPALITY OF ANY STATE OR STATES.

E. THE CITY UNIVERSITY IS FURTHER AUTHORIZED AND EMPOWERED TO ESTABLISH CASH ADVANCE ACCOUNTS FOR THE PURPOSE OF PURCHASING COMMODITIES, RENOVATIONS OR SERVICES, FOR CASH ADVANCES FOR TRAVEL EXPENSES AND PER DIEM ALLOWANCES, OR FOR ADVANCE PAYMENT OF WAGES AND SALARY. SUCH ACCOUNTS MAY BE USED TO PURCHASE SUCH COMMODITIES, RENOVATIONS OR SERVICES WHERE THE AMOUNT OF A SINGLE PURCHASE DOES NOT EXCEED ONE THOUSAND DOLLARS, IN ACCORDANCE WITH THE GUIDELINES ESTABLISHED BY THE CITY UNIVERSITY AFTER CONSULTATION WITH THE STATE COMPTROLLER.

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

PART H

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

4. PRORATION OF AWARD. A. FOR PURPOSES OF PRORATING AWARDS UNDER THIS SECTION, A STUDENT ENROLLED FOR AT LEAST FIFTEEN SEMESTER CREDITS, OR ITS EQUIVALENT, SHALL BE ELIGIBLE FOR A FULL AWARD.

B. AWARDS CALCULATED PURSUANT TO SUBDIVISION THREE OF THIS SECTION SHALL BE PRORATED BASED UPON ENROLLED CREDITS AT THE TIME THE TUITION LIABILITY IS INCURRED OR ON THE DATE IN WHICH THE COLLEGE OR INSTITUTION REPORTS ENROLLMENT STATUS FOR FEDERAL TITLE IV PROGRAMS, WHICHEVER IS LATER. STUDENTS ENROLLED IN FEWER THAN FIFTEEN SEMESTER CREDITS AND MORE THAN NINE SEMESTER CREDITS OR THEIR EQUIVALENT, SHALL HAVE THEIR AWARDS PRORATED USING AN ENROLLMENT FACTOR. THE ENROLLMENT FACTOR SHALL BE THE PERCENTAGE OBTAINED BY DIVIDING THE NUMBER OF ENROLLED CREDITS AS CERTIFIED BY THE SCHOOL (THE NUMERATOR), BY FIFTEEN SEMESTER CREDITS OR ITS EQUIVALENT (THE DENOMINATOR).

C. ANY SEMESTER, QUARTER OR TERM OF ATTENDANCE DURING WHICH A STUDENT RECEIVES A PRORATED AWARD SHALL BE COUNTED AS THE ENROLLMENT FACTOR PERCENT OF A SEMESTER, QUARTER OR TERM TOWARD THE MAXIMUM TERM OF ELIGIBILITY FOR TUITION ASSISTANCE AWARDS. THE TOTAL PERIOD OF STUDY FOR WHICH PAYMENT MAY BE MADE SHALL NOT EXCEED THE EQUIVALENT OF THE MAXIMUM PERIOD AUTHORIZED FOR THAT AWARD.

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

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

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

b. has earned at least twelve credits in each of two consecutive semesters at one of the institutions named in paragraph a of this subdivision by the time of the awards;

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

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

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

a. For part-time students defined in this section, the award shall be calculated as provided in section six hundred sixty-seven of this article and shall be in an amount equal to the enrollment factor percent of the award the student would have been eligible for if the student were enrolled [full-time] IN FIFTEEN SEMESTER CREDITS OR ITS EQUIVALENT. The enrollment factor percent is the percentage obtained by dividing the number of credits [the student is enrolled in], as certified by the

school (THE NUMERATOR), [by the number of credits required for full-time study in the semester, quarter or term as defined by the commissioner] BY FIFTEEN SEMESTER CREDITS OR ITS EQUIVALENT (THE DENOMINATOR).

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

PART I

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

S 2. This act shall take effect July 1, 2009.

PART J

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

PART V

THE NEW YORK HIGHER EDUCATION LOAN PROGRAM

SECTION 690. DEFINITIONS.
691. POWERS AND DUTIES.
692. EDUCATION LOANS; SPECIAL REQUIREMENTS.
693. REPAYMENT OF LOANS.
694. SALE OF EDUCATION LOANS.
694-A. MISCELLANEOUS.
694-B. REPORTING.

S 690. DEFINITIONS. AS USED IN THIS PART, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS OTHERWISE SPECIFIED:

1. "EDUCATION LOAN" SHALL MEAN ANY LOAN THAT IS MADE BY A LENDING INSTITUTION AND GUARANTEED BY THE CORPORATION UNDER THIS PROGRAM.

2. "ELIGIBLE BORROWER" OR "BORROWER" SHALL MEAN (I) A STUDENT WHO IS A RESIDENT OF NEW YORK STATE ATTENDING, OR ACCEPTED FOR ENROLLMENT AT, AN ELIGIBLE COLLEGE, OR (II) THE PARENT OR LEGAL GUARDIAN OF A STUDENT ATTENDING, OR ACCEPTED FOR ENROLLMENT AT, AN ELIGIBLE COLLEGE WHO IS A RESIDENT OF NEW YORK STATE, AND WHO OBTAINS AN EDUCATION LOAN FROM A LENDING INSTITUTION TO PAY FOR OR FINANCE HIGHER EDUCATION EXPENSES UNDER THIS PROGRAM.

3. "ELIGIBLE COLLEGE" SHALL MEAN A POST-SECONDARY INSTITUTION, LOCATED WITHIN NEW YORK STATE, ELIGIBLE FOR FUNDS UNDER TITLE IV OF THE HIGHER EDUCATION ACT OF NINETEEN HUNDRED SIXTY-FIVE, AS AMENDED, OR SUCCESSOR STATUTE OFFERING A TWO-YEAR, FOUR-YEAR, GRADUATE OR PROFESSIONAL DEGREE GRANTING OR CERTIFICATE PROGRAM.

4. "ELIGIBLE CO-SIGNER" SHALL MEAN A PARENT, LEGAL GUARDIAN OR OTHERWISE CREDIT WORTHY INDIVIDUAL OVER TWENTY-ONE YEARS OF AGE WHO SATISFIES APPLICABLE CREDIT CRITERIA APPROVED BY THE CORPORATION AND IS A RESIDENT OF NEW YORK STATE.

5. "HIGHER EDUCATION EXPENSES" SHALL MEAN THE COST OF ATTENDANCE AT AN ELIGIBLE COLLEGE AND SHALL INCLUDE TUITION AND FEES, BOOKS, ROOM AND BOARD, AND OTHER EDUCATIONALLY RELATED EXPENSES, AS DETERMINED BY THE CORPORATION.

6. "LENDING INSTITUTION" OR "LENDER" SHALL MEAN ANY ENTITY THAT ITSELF OR THROUGH AN AFFILIATE ORIGINATES EDUCATION LOANS, OTHER THAN AN ENTITY AUTHORIZED TO FINANCE THE PURCHASE OR MAKING OF EDUCATION LOANS THROUGH THE ISSUANCE OF BONDS PURSUANT TO THE PUBLIC AUTHORITIES LAW.

7. "PROGRAM" SHALL MEAN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM ESTABLISHED BY THIS ARTICLE.

8. "STUDENT" SHALL MEAN ANY INDIVIDUAL WHO IS ENROLLED AT LEAST HALF-TIME, AS DEFINED BY THE COMMISSIONER, IN A TWO YEAR, FOUR YEAR, GRADUATE OR PROFESSIONAL DEGREE GRANTING OR CERTIFICATE PROGRAM AT AN ELIGIBLE COLLEGE.

S 691. POWERS AND DUTIES. IN FURTHERANCE OF THE PURPOSES SET FORTH IN THIS PART, THE CORPORATION SHALL HAVE THE FOLLOWING ADDITIONAL POWERS AND DUTIES:

1. TO MARKET, ORIGINATE, DISBURSE, SERVICE, COLLECT, ADMINISTER, GUARANTEE, FINANCE, AND PURCHASE EDUCATION LOANS NOT IN DEFAULT STATUS MADE UNDER THIS PROGRAM OR CONTRACT FOR THESE SERVICES.

2. TO PURCHASE DEFAULTED EDUCATION LOANS MADE UNDER THIS PROGRAM.

3. TO ESTABLISH AND MAINTAIN ONE OR MORE DEFAULT RESERVE FUNDS AND ACCOUNTS WITHIN SUCH FUNDS, IN ACCORDANCE WITH THE TERMS OF THIS PROGRAM.

4. TO DEVELOP AND ADMINISTER OR CONTRACT TO ADMINISTER ONE OR MORE FINANCIAL LITERACY PROGRAMS.

5. TO PROVIDE OR CONTRACT TO PROVIDE DEFAULT AVERSION SERVICES.

6. TO ENTER INTO PARTICIPATION AGREEMENTS WITH, AND ESTABLISH CRITERIA FOR, ELIGIBLE COLLEGES, LENDERS, AND OTHER ENTITIES SUCH AS, BUT NOT LIMITED TO, SERVICERS, ANY ENTITY AUTHORIZED TO FINANCE THE PURCHASE OR MAKING OF EDUCATION LOANS THROUGH THE ISSUANCE OF BONDS PURSUANT TO THE PUBLIC AUTHORITIES LAW, AND ANY SUBSEQUENT PURCHASER OF EDUCATION LOANS MADE UNDER THIS PROGRAM.

7. TO ESTABLISH CRITERIA FOR ALL LENDER UNDERWRITING, EDUCATION LOAN PURCHASES, SERVICING AND DEFAULT INSURANCE PAYMENTS.

8. TO ESTABLISH CRITERIA FOR THE DISTRIBUTION OF EDUCATION LOANS MADE UNDER THIS PROGRAM.

9. TO AUDIT LENDERS AND ELIGIBLE COLLEGES FOR PROGRAM COMPLIANCE.

10. TO ADOPT RULES AND REGULATIONS TO IMPLEMENT THIS PROGRAM.

S 692. EDUCATION LOANS; SPECIAL REQUIREMENTS. 1. TERMS AND CONDITIONS. (A) ELIGIBLE BORROWERS SHALL APPLY FOR EDUCATION LOANS UNDER THIS PROGRAM ON FORMS PRESCRIBED BY THE CORPORATION;

(B) EXCEPT AS MAY BE PROVIDED BY REGULATION, APPLICANTS FOR EDUCATION LOANS SHALL BE REQUIRED TO FIRST APPLY FOR: (I) THEIR MAXIMUM ELIGIBILITY OF LOANS UNDER THE FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP) AND THE FEDERAL DIRECT STUDENT LOAN PROGRAM (FDSLP), EXCLUDING PLUS LOANS; (II) ANY OTHER FEDERAL STUDENT AID, OTHER THAN HEAL LOANS AND OTHER AID PERMITTED BY THE CORPORATION TO BE EXCLUDED; (III) ANY STATE STUDENT AID; AND (IV) ANY OTHER STUDENT AID AS PRESCRIBED BY THE CORPORATION BEFORE BEING ELIGIBLE FOR ANY EDUCATION LOAN UNDER THIS PROGRAM;

(C) BORROWERS SHALL SUCCESSFULLY COMPLETE A FINANCIAL LITERACY COURSE AS PRESCRIBED BY THE CORPORATION;

(D) STUDENT BORROWERS MUST APPLY FOR EDUCATION LOANS UNDER THIS PROGRAM WITH AN ELIGIBLE CO-SIGNER;

(E) A BORROWER, OR CO-SIGNER, WHO IS IN DEFAULT ON AN EDUCATION LOAN MADE UNDER THIS PROGRAM, THE FEDERAL FAMILY EDUCATION LOAN PROGRAM, THE WILLIAMS D. FORD PROGRAM, OR HAS FAILED TO COMPLY WITH THE TERMS AND CONDITIONS OF ANY AWARD UNDER THIS ARTICLE AND HAS FAILED TO SATISFACTORILY CURE SUCH DEFAULT OR NON-COMPLIANCE AS PRESCRIBED BY APPLICABLE LAW OR REGULATION SHALL BE INELIGIBLE TO RECEIVE A LOAN UNDER THIS PROGRAM, AND SHALL FURTHER BE INELIGIBLE FOR ANY OTHER STATE STUDENT AID WHILE IN DEFAULT ON AN EDUCATION LOAN MADE UNDER THIS PROGRAM; AND

(F) PARTICIPATING ELIGIBLE COLLEGES, LENDING INSTITUTIONS, AND OTHER PARTICIPANTS IN THIS PROGRAM SHALL BE REQUIRED TO ENTER INTO A PARTICIPATION AGREEMENT WITH THE CORPORATION AND COMPLY WITH ALL REPORTING AND PROCESSING REQUIREMENTS AND PROCEDURES AS ESTABLISHED BY THE CORPO-

RATION. THESE PARTICIPATION AGREEMENTS SHALL CONTAIN SUCH OTHER SPECIFIC TERMS AND CONDITIONS OF THE PROGRAM AS SHALL BE DETERMINED BY THE CORPORATION.

2. CITIZENSHIP. A BORROWER MUST BE (A) A CITIZEN OF THE UNITED STATES, OR

(B) AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE UNITED STATES, OR

(C) AN INDIVIDUAL OF A CLASS OF REFUGEES PAROLED BY THE ATTORNEY GENERAL OF THE UNITED STATES UNDER HIS OR HER PAROLE AUTHORITY PERTAINING TO THE ADMISSION OF ALIENS TO THE UNITED STATES.

3. LOAN LIMITS. EDUCATION LOANS MADE BY LENDING INSTITUTIONS UNDER THIS PROGRAM SHALL HAVE ANNUAL AND CUMULATIVE LOAN LIMITS AS APPROVED FROM TIME TO TIME BY THE CORPORATION.

4. INTEREST RATES. THE INTEREST RATE OF LOANS MADE UNDER THIS PROGRAM SHALL BE ESTABLISHED IN A MANNER THAT SHALL BE APPROVED AT LEAST ANNUALLY BY THE CORPORATION, WITH THE CONSENT OF THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER AUTHORIZED PUBLIC BENEFIT CORPORATION, WITH RESPECT TO LOANS THAT MAY BE ELIGIBLE FOR PURCHASE BY SUCH ENTITY, BASED UPON CONSIDERATION OF MARKET AND OTHER APPLICABLE CONDITIONS.

5. FEES. A PERCENTAGE OF THE EDUCATION LOAN SHALL BE PAID AS A DEFAULT FEE, BY EITHER THE BORROWER OR THE LENDER, IN AN AMOUNT TO BE ESTABLISHED AT LEAST ANNUALLY BY THE CORPORATION. THIS FEE MAY BE ADDED TO THE COST OF ATTENDANCE FOR THE PURPOSES OF CALCULATING THE LOAN AMOUNT AND SHALL BE TRANSMITTED FROM THE LENDER TO THE CORPORATION IN ACCORDANCE WITH RULES OR REGULATIONS PROMULGATED BY THE CORPORATION. THE CORPORATION SHALL DEPOSIT THESE FUNDS INTO A DESIGNATED ACCOUNT WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE.

6. CONSOLIDATION. EDUCATION LOANS MADE PURSUANT TO THIS PROGRAM MAY BE ELIGIBLE FOR CONSOLIDATION UPON THE TERMS AND CONDITIONS ESTABLISHED BY THE CORPORATION. ANY PERSON CONSOLIDATING EDUCATION LOANS UNDER THIS PROGRAM SHALL BE CONSIDERED A BORROWER FOR PURPOSES OF THIS PART.

7. DEFAULT RESERVE FUND. (A) GENERAL PROVISIONS. ONE OR MORE DEFAULT RESERVE FUNDS SHALL BE ESTABLISHED IN THE CUSTODY OF THE COMPTROLLER PURSUANT TO SECTIONS SEVENTY-EIGHT-A AND SEVENTY-EIGHT-B OF THE STATE FINANCE LAW. THESE FUNDS SHALL BE USED BY THE CORPORATION TO PAY DEFAULT CLAIMS TO PARTICIPATING LENDERS AND HOLDERS OF EDUCATION LOANS MADE PURSUANT TO THIS PROGRAM.

(B) DEPOSITS. THE CORPORATION SHALL PROMPTLY DEPOSIT OR TRANSFER INTO THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND CREATED BY SECTION SEVENTY-EIGHT-A OF THE STATE FINANCE LAW, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND CREATED BY SECTION SEVENTY-EIGHT-B OF THE STATE FINANCE LAW OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION DEFAULT RESERVE FUND CREATED BY SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW, WITH RESPECT TO EDUCATION LOANS, RESPECTIVELY, DESCRIBED IN SUCH PROVISIONS, ANY MONEYS RECEIVED IN CONNECTION WITH THIS PROGRAM OTHER THAN PAYMENTS OF PRINCIPAL AND INTEREST OF EDUCATION LOANS THAT ARE NOT IN DEFAULT STATUS, INCLUDING, BUT NOT LIMITED TO: (I) DEFAULT FEES; (II) FEES RECEIVED FROM ELIGIBLE COLLEGES; (III) FUNDS RECEIVED FOR THE REPAYMENT OF DEFAULTED EDUCATION LOANS, THE UNPAID PRINCIPAL, CAPITALIZED AND UNPAID ACCRUED INTEREST OF WHICH HAVE BEEN PAID FROM THE FUNDS, INCLUDING WITHOUT LIMITATION ALL SUCH AMOUNTS RECEIVED THROUGH THE OPERATION OF VOLUNTARY COLLECTION

ACTIVITIES, ADMINISTRATIVE WAGE GARNISHMENT OR CREDIT OF TAX OVERPAYMENTS LESS ANY AMOUNTS RECEIVED FOR COLLECTION FEES ASSESSED BY THE CORPORATION; (IV) CONTRACTUAL PENALTIES AND SUBSIDY FEES; (V) ANY AMOUNT THAT MAY BE APPROPRIATED TO THE CORPORATION; (VI) ANY AMOUNT RECEIVED BY THE CORPORATION OR ANY AGENT FROM ANY OTHER SOURCE FOR DEPOSIT THEREIN; AND (VII) INTEREST AND INVESTMENT INCOME EARNED BY THE FUNDS.

8. LENDER DUE DILIGENCE. PARTICIPATING LENDERS SHALL BE REQUIRED TO PERFORM ALL DUE DILIGENCE REQUIREMENTS AS PRESCRIBED BY THE CORPORATION AND INCORPORATED INTO THE PARTICIPATION AGREEMENT AND INTO REGULATIONS PROMULGATED BY THE CORPORATION.

9. ELIGIBLE COLLEGE REQUIREMENTS. (A) PARTICIPATING ELIGIBLE COLLEGES SHALL BE REQUIRED TO CERTIFY LOAN ELIGIBILITY UPON FORMS PRESCRIBED BY THE CORPORATION AND INCORPORATED INTO THE PARTICIPATION AGREEMENT AND PURSUANT TO REGULATIONS PROMULGATED BY THE CORPORATION.

(B) PARTICIPATING ELIGIBLE COLLEGES SHALL BE REQUIRED TO CONTRIBUTE A ONE PERCENT FEE, BASED UPON THE LOAN DOLLAR VOLUME, OR HAVE THE CONTRIBUTION MADE ON ITS BEHALF, PURSUANT TO THE TERMS OF THE PARTICIPATION AGREEMENT. THESE FEES SHALL BE DEPOSITED INTO A DESIGNATED ACCOUNT WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE.

S 693. REPAYMENT OF LOANS. 1. TERMS OF REPAYMENT. THE TERMS OF REPAYMENT OF EDUCATION LOANS MADE UNDER THIS PROGRAM SHALL BE ESTABLISHED IN RULES AND REGULATIONS PROMULGATED BY THE CORPORATION SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY OR OTHER PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS UNDER THIS PROGRAM.

2. GRACE PERIOD. THE TERMS OF ANY GRACE PERIOD FOR EDUCATION LOANS MADE UNDER THIS PROGRAM SHALL BE ESTABLISHED IN RULES AND REGULATIONS PROMULGATED BY THE CORPORATION SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY OR OTHER PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS UNDER THIS PROGRAM.

3. FORBEARANCE AND DEFERMENTS. EDUCATION LOANS MADE UNDER THIS PROGRAM SHALL BE ELIGIBLE FOR FORBEARANCE AND/OR DEFERMENTS PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE CORPORATION, OR PURSUANT TO SUCH ADDITIONAL FORBEARANCE AND/OR DEFERMENTS AS OFFERED BY AN ELIGIBLE LENDER SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER AUTHORIZED PUBLIC BENEFIT CORPORATION, WITH RESPECT TO LOANS THAT MAY BE ELIGIBLE FOR PURCHASE BY SUCH ENTITY. UPON THE PURCHASE OF A DEFAULTED EDUCATION LOAN MADE UNDER THIS PROGRAM, THE BORROWER SHALL NO LONGER BE ELIGIBLE FOR ANY FORBEARANCE OR DEFERMENTS WHILE SUCH LOAN REMAINS IN DEFAULT.

4. DELINQUENCY. A BORROWER SHALL BE CONSIDERED DELINQUENT ON AN EDUCATION LOAN UNDER THIS PROGRAM AFTER SIXTY DAYS OF NON-PAYMENT. THE LENDER SHALL NOTIFY THE CORPORATION BY THE SIXTIETH DAY OF DELINQUENCY AND THE CORPORATION SHALL UNDERTAKE ACTIONS TO RETURN THE BORROWER TO REPAYMENT PURSUANT TO RULES AND REGULATIONS ESTABLISHED BY THE CORPORATION.

5. DEFAULT. ANY EDUCATION LOAN UNDER THIS PROGRAM THAT IS DELINQUENT FOR ONE HUNDRED EIGHTY DAYS SHALL BE DEEMED IN DEFAULT. UPON DEFAULT, THE LENDER SHALL FILE A CLAIM WITH THE CORPORATION FOR PAYMENT ON ITS GUARANTEE PURSUANT TO REGULATIONS PROMULGATED BY THE CORPORATION. UPON RECEIPT OF A CLAIM, THE CORPORATION SHALL NOTIFY THE BORROWER THAT THEIR LOAN HAS BEEN ASSIGNED TO THE CORPORATION. THE LENDER, OR HOLDER OF EDUCATION LOANS UNDER THIS PROGRAM, SHALL BE PAID ONE HUNDRED PERCENT OF THE OUTSTANDING PRINCIPAL, CAPITALIZED AND UNPAID ACCRUED INTEREST. UPON SUCH PAYMENT BY THE CORPORATION OR THE STATE OF NEW YORK MORTGAGE AGEN-

CY, THIS AMOUNT SHALL BE THE PRINCIPAL OWED BY THE BORROWER TO THE CORPORATION.

ALL COLLECTION PAYMENTS RECEIVED BY THE CORPORATION FROM A BORROWER, OR ON BEHALF OF BORROWERS, IN DEFAULT ON LOANS MADE UNDER THIS PROGRAM SHALL BE DEPOSITED INTO A DESIGNATED ACCOUNT WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE.

6. COLLECTION FEE. THE CORPORATION SHALL ASSESS A COLLECTION FEE, IN AN AMOUNT TO BE DETERMINED BY THE CORPORATION AT LEAST ANNUALLY, ON ALL DEFAULTED EDUCATION LOANS UNDER THIS PROGRAM. THIS FEE SHALL BE RETAINED BY THE CORPORATION FOR THE ADMINISTRATION OF THE PROGRAM.

7. ADMINISTRATIVE WAGE GARNISHMENT. (A) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE CORPORATION SHALL BE ENTITLED TO GARNISH THE DISPOSABLE PAY OF AN INDIVIDUAL TO COLLECT THE AMOUNT OWED BY THE INDIVIDUAL, IF SUCH INDIVIDUAL FAILS TO MAKE REQUIRED VOLUNTARY PAYMENTS UNDER A REPAYMENT AGREEMENT WITH THE CORPORATION, PROVIDED THAT:

(I) THE AMOUNT DEDUCTED FOR ANY PAY PERIOD DOES NOT EXCEED FIFTEEN PERCENT OF DISPOSABLE PAY. HOWEVER, THE AMOUNT DEDUCTED FOR ANY PERIOD MAY EXCEED FIFTEEN PERCENT WITH THE WRITTEN CONSENT OF THE INDIVIDUAL;

(II) PRIOR TO GARNISHMENT THE INDIVIDUAL SHALL HAVE BEEN GIVEN THIRTY DAYS WRITTEN NOTICE TO THE INDIVIDUAL'S LAST KNOWN ADDRESS ADVISING SUCH INDIVIDUAL OF THE NATURE OF THE OBLIGATION, AMOUNT OF THE LOAN OBLIGATION, THE CORPORATION'S INTENT TO GARNISH AND AN EXPLANATION OF THE INDIVIDUAL'S RIGHTS UNDER THIS SECTION INCLUDING THE RIGHT TO INSPECT AND COPY RECORDS RELATING TO THE DEBT;

(III) THE INDIVIDUAL SHALL HAVE BEEN GIVEN AN OPPORTUNITY WITHIN THE AFOREMENTIONED THIRTY DAYS TO ENTER INTO A WRITTEN REPAYMENT AGREEMENT WITH THE CORPORATION TO AVOID GARNISHMENT OF WAGES;

(IV) THE INDIVIDUAL SHALL HAVE BEEN PROVIDED AN OPPORTUNITY FOR A HEARING PURSUANT TO THE REQUIREMENTS OF PARAGRAPH (F) OF THIS SUBDIVISION.

(B) THE INDIVIDUAL'S EMPLOYER SHALL PAY TO THE CORPORATION AMOUNTS AS DIRECTED IN THE WITHHOLDING ORDER AND SHALL BE LIABLE FOR FAILURE TO COMPLY WITH SAID ORDER. THE CORPORATION MAY SUE AN EMPLOYER IN A COURT OF COMPETENT JURISDICTION TO RECOVER FROM SUCH EMPLOYER THE AMOUNT THE EMPLOYER FAILS TO WITHHOLD FROM THE INDIVIDUAL'S WAGES FOLLOWING RECEIPT OF THE ORDER OF WITHHOLDING WITH INTEREST THEREON PLUS ATTORNEYS' FEES AND COSTS;

(C) THE NOTICE OF WITHHOLDING SERVED UPON THE EMPLOYER SHALL CONTAIN ONLY SUCH INFORMATION AS IS NECESSARY FOR THE EMPLOYER TO COMPLY WITH THE WITHHOLDING ORDER.

(D) NO AMOUNT MAY BE DEDUCTED FROM THE WAGES OF AN INDIVIDUAL WHO HAS BEEN INVOLUNTARILY SEPARATED FROM EMPLOYMENT AND HAS NOT BEEN CONTINUOUSLY EMPLOYED FOR TWELVE MONTHS. AN INDIVIDUAL MUST PROVE THAT SEPARATION FROM EMPLOYMENT WAS INVOLUNTARY. SEPARATION DUE TO INCARCERATION SHALL NOT QUALIFY AS INVOLUNTARY SEPARATION.

(E) AN EMPLOYER MAY NOT DISCHARGE FROM EMPLOYMENT, TAKE DISCIPLINARY ACTION AGAINST OR REFUSE TO EMPLOY AN INDIVIDUAL BY REASON OF THE FACT THAT SUCH INDIVIDUAL'S WAGES ARE SUBJECT TO AN ORDER OF WITHHOLDING. SUCH INDIVIDUAL MAY TAKE ACTION AGAINST SAID EMPLOYER IN A COURT OF COMPETENT JURISDICTION FOR REINSTATEMENT, BACK PAY OR SUCH FURTHER RELIEF AS MAY BE JUST AND NECESSARY.

(F) A HEARING AS DESCRIBED IN SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE PROVIDED PRIOR TO AN ORDER OF WITHHOLDING IF

THE INDIVIDUAL SUBMITS A WRITTEN REQUEST FOR A HEARING ON OR BEFORE THE FIFTEENTH DAY FOLLOWING THE NOTICE DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (A) OF THIS SUBDIVISION IN ACCORDANCE WITH PROCEDURES SET FORTH BY THE CORPORATION. IF AN INDIVIDUAL FAILS TO SUBMIT A WRITTEN REQUEST IN THE TIME FRAME PROVIDED, THE CORPORATION SHALL STILL PROVIDE A HEARING UPON RECEIPT OF A WRITTEN REQUEST, BUT SUCH HEARING NEED NOT BE PROVIDED PRIOR TO AN ORDER OF WITHHOLDING BEING ISSUED TO THE EMPLOYER. THE HEARING SHALL NOT BE CONDUCTED BY A PARTY UNDER THE SUPERVISION OR CONTROL OF THE CORPORATION EXCEPT THAT NOTHING SHALL PROHIBIT THE CORPORATION FROM APPOINTING AN ADMINISTRATIVE LAW JUDGE. A HEARING DECISION SHALL BE ISSUED NO LATER THAN SIXTY DAYS AFTER THE FILING OF THE PETITION REQUESTING THE HEARING.

(G) FOR PURPOSES OF THIS SECTION "DISPOSABLE PAY" SHALL MEAN THAT PART OF THE COMPENSATION OF ANY INDIVIDUAL FROM AN EMPLOYER REMAINING AFTER DEDUCTION OF AMOUNTS REQUIRED TO BE WITHHELD BY LAW.

(H) ALL FUNDS RECEIVED THROUGH ADMINISTRATIVE WAGE GARNISHMENT SHALL BE DEPOSITED INTO A DESIGNATED ACCOUNT WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE.

8. NEW YORK STATE TAX OFFSET. THE CORPORATION SHALL BE ENTITLED TO RECEIVE CREDITS OF NEW YORK STATE TAX OVERPAYMENTS PURSUANT TO SECTIONS ONE HUNDRED SEVENTY-ONE AND SIX HUNDRED NINETY-SEVEN OF THE TAX LAW WITH RESPECT TO DEFAULTED EDUCATION LOANS UNDER THIS PROGRAM. ALL FUNDS, OR CREDITS, RECEIVED THROUGH SUCH TAX OFFSETS SHALL BE DEPOSITED INTO A DESIGNATED ACCOUNT WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE.

9. DATA SHARE. THE CORPORATION SHALL BE ENTITLED TO RECEIVE DATA FROM THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE PURSUANT TO SECTIONS ONE HUNDRED SEVENTY-ONE AND SIX HUNDRED NINETY-SEVEN OF THE TAX LAW WITH RESPECT TO DEFAULTED EDUCATION LOANS UNDER THIS PROGRAM.

10. STATUTE OF LIMITATION. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THERE SHALL BE NO STATUTE OF LIMITATIONS TO BRING SUIT OR OTHERWISE COLLECT AN EDUCATION LOAN UNDER THIS PROGRAM. JUDGMENTS IN FAVOR OF THE CORPORATION UNDER THIS PROGRAM SHALL NOT EXPIRE AND THERE SHALL BE NO STATUTE OF LIMITATIONS UPON WHICH TO ENFORCE OR COLLECT SAID JUDGMENT.

11. CAPACITY OF MINORS. ANY PERSON OTHERWISE QUALIFYING FOR AN EDUCATION LOAN UNDER THIS PROGRAM SHALL NOT BE DISQUALIFIED BY REASON OF HIS OR HER BEING UNDER THE AGE OF EIGHTEEN YEARS AND FOR THE PURPOSES OF APPLYING FOR, RECEIVING AND REPAYING SUCH A LOAN, ANY SUCH PERSON SHALL BE DEEMED TO HAVE FULL LEGAL CAPACITY TO ACT. THE CORPORATION, IN COLLECTING EDUCATION LOANS UNDER THIS PROGRAM, SHALL NOT BE SUBJECT TO A DEFENSE RAISED BY ANY BORROWER BASED ON A CLAIM OF INFANCY.

12. USURY. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THERE SHALL BE NO LIMITATION ON THE RATE OR AMOUNT OF INTEREST OR FEES PAYABLE ON EDUCATION LOANS MADE UNDER THIS PROGRAM.

13. DEATH AND DISABILITY DISCHARGE. UPON THE DEATH OF A BORROWER OR A STUDENT, THE EDUCATION LOAN MADE UNDER THIS PROGRAM SHALL BE DEEMED DISCHARGED. IF THE BORROWER BECOMES TOTALLY AND PERMANENTLY DISABLED, AS DEFINED BY THE CORPORATION IN REGULATION, THE EDUCATION LOAN UNDER THIS PROGRAM SHALL BE DEEMED DISCHARGED. THE LENDER OR HOLDER OF SUCH

DISCHARGED EDUCATION LOANS SHALL BE PAID THE OUTSTANDING PRINCIPAL, CAPITALIZED AND UNPAID ACCRUED INTEREST DUE FROM PROCEEDS OF THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE.

14. BANKRUPTCY. EDUCATION LOANS UNDER THIS PROGRAM SHALL BE CONSIDERED NON-DISCHARGEABLE PURSUANT TO SECTION 523(A)(8) OF THE U.S. BANKRUPTCY CODE.

15. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, OTHER THAN SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW, A SECURITY INTEREST IN EDUCATION LOANS SHALL BE PERFECTED ONLY BY THE FILING OF A FINANCING STATEMENT IN THE MANNER PROVIDED UNDER SECTION 9-310 OF THE UNIFORM COMMERCIAL CODE, AND SHALL ATTACH AND BE ASSIGNED PRIORITY IN THE MANNER PROVIDED UNDER THE UNIFORM COMMERCIAL CODE WITH RESPECT TO SECURITY INTERESTS PERFECTED BY SUCH A FILING, AND A DESCRIPTION OF COLLATERAL CONSISTING OF EDUCATION LOANS IN ANY FINANCING STATEMENT SHALL BE CONCLUSIVELY DEEMED TO BE LEGALLY SUFFICIENT IF IT REFERS TO RECORDS IDENTIFYING SUCH LOANS RETAINED BY THE CORPORATION, PROVIDED THAT ANY SUCH SECURITY INTEREST SHALL BE SUBJECT TO ANY APPLICABLE LIEN UNDER SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW. THE OWNER OF ANY EDUCATION LOAN SHALL ADVISE THE CORPORATION OF ANY SALE OR ASSIGNMENT OF SUCH LOAN AT THE TIME AND IN THE MANNER REQUIRED BY THE CORPORATION.

16. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY ELIGIBLE PUBLIC COLLEGE OR PUBLIC CAREER EDUCATION INSTITUTION IS HEREBY AUTHORIZED TO ENTER INTO ONE OR MORE AGREEMENTS WITH THE CORPORATION AND ANY ENTITY AUTHORIZED TO FINANCE EDUCATION LOANS PURSUANT TO THE PUBLIC AUTHORITIES LAW PROVIDING FOR THE PARTICIPATION OF SUCH COLLEGE OR CAREER EDUCATION INSTITUTION IN THE PROGRAM AND TO PERFORM OR CONTRACT THE PERFORMANCE OF ITS OBLIGATIONS UNDER ANY SUCH AGREEMENT. SUCH OBLIGATIONS MAY INCLUDE WITHOUT LIMITATION THE PAYMENT OBLIGATIONS DESCRIBED IN THIS TITLE.

S 694. SALE OF EDUCATION LOANS. 1. THE CORPORATION AND PARTICIPATING LENDERS SHALL BE AUTHORIZED TO ENTER INTO ONE OR MORE AGREEMENTS WITH ENTITIES FOR THE SALE OF EDUCATION LOANS MADE PURSUANT TO THIS PROGRAM.

2. EDUCATION LOAN PURCHASES MAY BE FINANCED (I) BY BONDS ISSUED BY THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER ENTITY AUTHORIZED TO ISSUE BONDS FOR SUCH PURPOSE PURSUANT TO THE PUBLIC AUTHORITIES LAW, IN AN AMOUNT APPROVED BY THE DIRECTOR OF THE DIVISION OF THE BUDGET; OR (II) BY OTHER NON-STATE SOURCES IN AMOUNTS ESTABLISHED PURSUANT TO AN AGREEMENT WITH THE CORPORATION.

3. THE CORPORATION SHALL ESTABLISH THE CRITERIA AND TERMS UPON WHICH LENDERS MAY SELL EDUCATION LOANS SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY OR ANY OTHER ENTITY AUTHORIZED TO ISSUE BONDS UNDER THIS PROGRAM.

S 694-A. MISCELLANEOUS. 1. NO EDUCATION LOAN SHALL BE DEEMED SUBJECT TO SECTION ONE HUNDRED EIGHT OF THE BANKING LAW OR TO ARTICLE NINE OF THE BANKING LAW OR TO ANY OTHER PROVISIONS OF LAW GOVERNING THE QUALIFICATIONS TO MAKE THE TERMS OR CONDITIONS OF LOANS DESCRIBED IN THIS PART, INCLUDING, WITHOUT LIMITATION, THE INTEREST RATES, FEES AND CHARGES APPLICABLE THERETO. NEITHER THE CORPORATION NOR ANY ENTITY AUTHORIZED TO FINANCE EDUCATION LOANS PURSUANT TO THE PUBLIC AUTHORITIES LAW SHALL BE SUBJECT TO ANY LICENSING REQUIREMENTS IN CONNECTION WITH ITS EDUCATION LENDING ACTIVITIES. NO ENTITY SHALL BE CONSIDERED A LENDER FOR PURPOSES OF ANY OTHER PROVISION OF LAW SOLELY AS A RESULT OF ITS INTEREST IN AN EDUCATION LOAN MADE UNDER THIS PART.

2. FUNDS MAY BE APPROPRIATED TO THE CORPORATION AND/OR THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER ENTITY AUTHORIZED TO ISSUE BONDS UNDER THIS PROGRAM, FOR THE ADMINISTRATION OF THIS PROGRAM.

3. INTEREST PAID ON EDUCATION LOANS MADE UNDER THIS PROGRAM SHALL BE ALLOWED AS A DEDUCTION IN COMPUTING THE NET TAXABLE INCOME OF ANY SUCH PERSON FOR PURPOSES OF ANY INCOME OR FRANCHISE TAX IMPOSED BY THE STATE OR ANY POLITICAL SUBDIVISION THEREOF.

4. THE SALE OF EDUCATION LOANS UNDER THIS PROGRAM SHALL BE SUBJECT TO THE AVAILABILITY OF FUNDING THEREOF.

5. TO THE EXTENT THAT THE PROVISIONS OF THIS PART ARE INCONSISTENT WITH THE PROVISIONS OF ANY OTHER PART OF THIS ARTICLE, THE PROVISIONS OF THIS PART SHALL BE CONTROLLING.

S 694-B. REPORTING. THE CORPORATION, AFTER CONSULTATION WITH THE STATE OF NEW YORK MORTGAGE AGENCY, AND ANY OTHER PUBLIC BENEFIT CORPORATION THAT SHALL HAVE ISSUED BONDS UNDER THIS PROGRAM, SHALL REPORT ANNUALLY TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE DIRECTOR OF THE DIVISION OF THE BUDGET ON THE NUMBER AND CHARACTERISTICS OF STUDENTS SERVED UNDER THIS PROGRAM. SUCH ANNUAL REPORT SHALL BE SUBMITTED BY THE FIRST DAY OF DECEMBER FOLLOWING THE CLOSE OF THE ACADEMIC YEAR FOR WHICH SUCH EDUCATION LOANS WERE MADE.

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

2. a. To submit to the governor, the temporary president of the senate, the speaker of the assembly, the senate finance committee, the assembly ways and means committee and the standing committees of the legislature having jurisdiction of higher education, at such times as the director of the budget may prescribe a student aid and loan budget request for the following state fiscal year. The budget request shall include, but not be limited to estimates of the number and characteristics of students eligible for aid and loans, OTHER THAN EDUCATION LOANS MADE UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM PURSUANT TO PART V OF THIS ARTICLE which budget request shall be developed by the president [after consultation with the board of regents] in order to implement the student financial aid and loan programs, OTHER THAN EDUCATION LOANS MADE UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM PURSUANT TO PART V OF THIS ARTICLE provided for in this article. NOTWITHSTANDING, THE BUDGET REQUEST SHALL ALSO INCLUDE AN ESTIMATE OF THE AMOUNTS NEEDED FOR STATE OPERATIONS WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM ACCOUNT FOR PURPOSES OF THE NEW YORK HIGHER EDUCATION LOAN PROGRAM ESTABLISHED PURSUANT TO PART V OF THIS ARTICLE. A copy of the budget request shall be transmitted to the commissioner for his information. The budget request submitted by the board shall be subject to approval annually as part of the executive budget.

b. At the time and in the format prescribed by the Director of the Budget, the Board shall submit to the Division of the Budget an administrative and operating budget request. This budget request shall be subject to approval annually as part of the executive budget.

c. In order further to assure the payment by the corporation to lending institutions for defaulted loans, OTHER THAN EDUCATION LOANS MADE UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM PURSUANT TO PART V OF THIS ARTICLE in the respective amounts as guaranteed by the corporation pursuant to contract, there shall be annually apportioned and paid to the corporation such estimated amount, if any, as shall be certified by the board to the governor and director of the budget as necessary to provide for the payment of all defaults for the next ensuing state fiscal year. The board shall, as part of its annual budget request, make

and deliver to the governor and director of the budget, its certificate stating the estimated amount, if any, required to pay SUCH defaults for the ensuing state fiscal year, if any, and said sums shall be apportioned and paid to the corporation during such fiscal year.

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

S 656. Contributions to corporation; tax deduction thereof. Notwithstanding the provisions of any general or special law all domestic corporations or associations organized for the purpose of carrying on business in this state, and any person, are hereby authorized to make contributions to the New York state higher education services corporation OR TO THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE and such contributions shall be allowed as deductions in computing the net taxable income of any such person, corporation or association for purposes of any income or franchise tax imposed by the state or any political subdivision thereof.

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

2. The state of New York covenants with the holders of the [obligations and] BONDS, notes [issued by], OR OTHER OBLIGATIONS OF the corporation pursuant to this article, OR OF THE STATE OF NEW YORK MORTGAGE AGENCY AUTHORIZED IN SECTION TWO THOUSAND FOUR HUNDRED SIX OF THE PUBLIC AUTHORITIES LAW FOR THE CORPORATE PURPOSES AUTHORIZED IN SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW, OR OF ANY OTHER STATE ENTITY AUTHORIZED TO ISSUE BONDS OR NOTES UNDER THE NEW YORK EDUCATION LOAN PROGRAM CODIFIED IN PART V OF THIS ARTICLE, THAT THE PROVISIONS OF LAW APPLICABLE TO THE NEW YORK EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE, AND TO THE POWERS OF THE CORPORATION TO RECEIVE AND DEPOSIT IN EACH SUCH FUND THE APPLICABLE AMOUNTS DESCRIBED THEREIN SHALL NOT BE AMENDED IN A MANNER ADVERSELY AFFECTING THE INTERESTS OF SUCH HOLDERS WITHOUT ADEQUATE PROVISION BEING MADE TO PROTECT SUCH INTERESTS AND that the corporation shall not be required to pay any taxes or assessments upon any of its property or upon its activities pursuant to the provisions of this article, or upon any moneys, funds, revenues or other income held or received by the corporation, and that the obligations and notes of the corporation and the income therefrom shall at all times be exempt from taxation, except for estate and gift taxes and taxes on transfers.

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

1. Applicability. The eligibility requirements and conditions established in this section shall apply to all general awards, academic performance awards and student loans OTHER THAN EDUCATION LOANS MADE PURSUANT TO PART V OF THIS ARTICLE.

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

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

eligible for a further guaranteed student loan UNDER THE FEDERAL STUDENT AID PROGRAMS or an award or both, [if] PROVIDED:

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

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

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

S 7. Section 682 of the education law is REPEALED.

S 8. Section 683 of the education law is REPEALED.

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

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

S 2405-A. EDUCATION LOANS. (1) FOR PURPOSES OF THIS SECTION, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANING UNLESS THE CONTEXT SHALL INDICATE ANOTHER OR DIFFERENT MEANING OR INTENT:

(A) "CORPORATION" SHALL MEAN THE NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION.

(B) "EDUCATION LOAN" SHALL MEAN: (I) A NEW YORK HIGHER EDUCATION LOAN PROGRAM LOAN MADE PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW; OR (II) A LOAN UNDER PART B OF TITLE IV OF THE HIGHER EDUCATION ACT OF NINETEEN HUNDRED SIXTY-FIVE, AS AMENDED, INCLUDING BUT NOT LIMITED TO A LOAN DESCRIBED IN SUBDIVISION TEN OF SECTION TWENTY-FOUR HUNDRED TWO OF THIS PART; PROVIDED, THAT THE BORROWER SHALL BE REQUIRED TO APPLY THE NET PROCEEDS OF SUCH LOANS TO PAY THE STUDENT'S COSTS OF POST-SECONDARY EDUCATION OR TO REPAY ONE OR MORE SUCH LOANS INCURRED FOR SUCH PURPOSE.

(2) IN ADDITION TO THE POWERS OF THE AGENCY PURSUANT TO THE OTHER SECTIONS OF THIS TITLE, THE AGENCY SHALL HAVE POWER:

(A) TO ENTER INTO ONE OR MORE AGREEMENTS WITH THE CORPORATION AND TO PERFORM OR CONTRACT FOR THE PERFORMANCE OF ITS OBLIGATIONS UNDER ANY SUCH AGREEMENT;

(B) TO MAKE AND CONTRACT TO MAKE AND TO ACQUIRE AND CONTRACT TO ACQUIRE EDUCATION LOANS AND TO ENTER INTO ADVANCE COMMITMENTS FOR THE PURCHASE OF SAID EDUCATION LOANS;

(C) SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS, TO INVEST MONEYS OF THE AGENCY NOT REQUIRED FOR IMMEDIATE USE, INCLUDING PROCEEDS FROM THE SALE OF ANY BONDS OR NOTES, IN EDUCATION LOANS;

(D) TO MAKE AND EXECUTE CONTRACTS FOR THE MARKETING, ORIGINATION, SERVICING, COLLECTION, ADMINISTRATION, GUARANTEE AND FINANCING OF EDUCATION LOANS ORIGINATED OR ACQUIRED BY THE AGENCY PURSUANT TO THIS TITLE,

AND TO PAY THE REASONABLE VALUE OF SERVICES RENDERED TO THE AGENCY PURSUANT TO THOSE CONTRACTS;

(E) SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS, TO RENEGOTIATE OR REFINANCE ANY EDUCATION LOAN THAT HAS BEEN ACQUIRED BY THE AGENCY OR WHICH THE AGENCY HAS COMMITTED TO PURCHASE THAT IS IN DEFAULT; TO WAIVE ANY DEFAULT OR CONSENT TO THE MODIFICATION OF THE TERMS OR ANY SUCH EDUCATION LOAN; TO FORGIVE ALL OR PART OF ANY INDEBTEDNESS; AND TO COMMENCE ANY ACTION OR PROCEEDING TO PROTECT OR ENFORCE ANY RIGHT CONFERRED UPON IT WITH RESPECT TO ANY SUCH EDUCATION LOAN BY LAW, LOAN AGREEMENT, CONTRACT OR OTHER AGREEMENT;

(F) TO PRESCRIBE STANDARDS AND CRITERIA FOR THE ORIGINATION OF EDUCATION LOANS TO BE ELIGIBLE FOR ACQUISITION BY THE AGENCY AND FOR EDUCATION LOANS PURCHASED BY THE AGENCY;

(G) SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS, TO SELL ANY EDUCATION LOANS MADE OR ACQUIRED BY THE AGENCY AT PUBLIC OR PRIVATE SALE AND AT SUCH PRICE OR PRICES AND ON SUCH TERMS AS THE AGENCY SHALL DETERMINE; AND

(H) TO ESTABLISH, REVISE FROM TIME TO TIME, CHARGE AND COLLECT SUCH PREMIUMS OR FEES IN CONNECTION WITH EDUCATION LOANS AND ITS PARTICIPATION IN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM AS THE AGENCY SHALL DETERMINE.

(3) THE AGENCY SHALL HAVE THE POWER AND IS HEREBY AUTHORIZED FROM TIME TO TIME TO ISSUE ITS BONDS AND NOTES PURSUANT TO SECTIONS TWO THOUSAND FOUR HUNDRED SIX, TWO THOUSAND FOUR HUNDRED SEVEN AND TWO THOUSAND FOUR HUNDRED EIGHT OF THIS PART FOR THE CORPORATE PURPOSES AUTHORIZED BY THIS SECTION, INCLUDING WITHOUT LIMITATION FOR THE PURPOSES OF FINANCING AND REFINANCING EDUCATION LOANS AND OF REFUNDING ANY BONDS OR NOTES ISSUED FOR SUCH PURPOSE.

(4) EACH LENDER OR SERVICE PROVIDER WHO MAKES A REPRESENTATION OR WARRANTY TO THE AGENCY WITH RESPECT TO AN EDUCATION LOAN SHALL BE LIABLE TO THE AGENCY FOR ANY DAMAGES SUFFERED BY THE AGENCY BY REASON OF THE UNTRUTH OF SUCH REPRESENTATION OR THE BREACH OF SUCH WARRANTY AND, IN THE EVENT THAT ANY REPRESENTATION SHALL PROVE TO BE UNTRUE WHEN MADE OR IN THE EVENT OF ANY BREACH OF WARRANTY, SUCH PERSON SHALL, AT THE OPTION OF THE AGENCY, REPURCHASE THE EDUCATION LOAN FOR THE PRICE PROVIDED IN THE APPLICABLE FINANCING AGREEMENT, AS THE AGENCY MAY DETERMINE.

(5) ANY PLEDGE BY THE AGENCY OF EDUCATION LOANS OR OF EARNINGS, REVENUES OR OTHER MONEYS RECEIVABLE FROM ANY SOURCE, INCLUDING WITHOUT LIMITATION DEFAULT PAYMENTS BY THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE, WITH RESPECT TO EDUCATION LOANS FINANCED BY THE AGENCY, SHALL BE VALID AND BINDING FROM THE TIME WHEN THE PLEDGE IS MADE. THE EDUCATION LOANS, EARNINGS, REVENUES OR OTHER MONEYS SO PLEDGED AND THEREAFTER RECEIVED BY THE AGENCY OR ITS AGENT, INCLUDING WITHOUT LIMITATION THE HIGHER EDUCATION SERVICES CORPORATION OR ANY EDUCATION LOAN SERVICER, SHALL IMMEDIATELY BE SUBJECT TO THE LIEN OF SUCH PLEDGE WITHOUT ANY PHYSICAL DELIVERY THEREOF OR FURTHER ACT, AND THE LIEN OF ANY SUCH PLEDGE SHALL BE VALID AND BINDING AS AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT OR OTHERWISE AGAINST THE AGENCY OR ITS AGENT, INCLUDING WITHOUT LIMITATION THE HIGHER EDUCATION SERVICES CORPORATION OR ANY EDUCATION LOAN SERVICER, IRRESPECTIVE OF WHETHER SUCH PARTIES HAVE NOTICE THEREOF. NEITHER THE RESOLUTION NOR ANY OTHER INSTRUMENT BY WHICH A PLEDGE IS CREATED NEED BE RECORDED.

(6) THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND. (A) THERE IS HEREBY CREATED AND ESTABLISHED IN THE SOLE CUSTODY OF THE STATE OF NEW YORK MORTGAGE AGENCY A SPECIAL FUND TO BE KNOWN AS THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND WHICH SHALL BE FOR THE EXCLUSIVE BENEFIT OF THE HOLDERS OF EDUCATION LOANS THAT THE AGENCY HAS ACQUIRED, OR AGREED TO ACQUIRE, UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM, CODIFIED IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW.

(B) AMOUNTS HELD IN THIS FUND SHALL NOT BE, OR BE DEEMED, FUNDS OF THE STATE OR FUNDS UNDER THE MANAGEMENT OF THE STATE, THE AGENCY, OR THE CORPORATION. THE OBLIGATIONS OF SUCH FUND SHALL NOT BE, OR BE DEEMED, THE DEBTS OR OBLIGATIONS OF THE STATE AND THE STATE SHALL NOT BE, OR BE DEEMED, IN ANY WAY OBLIGATED TO: ANY HOLDER OF ANY SUCH EDUCATION LOAN; ANY HOLDER OF BONDS ISSUED PURSUANT TO SECTION TWO THOUSAND FOUR HUNDRED SIX OF THIS PART FOR THE CORPORATE PURPOSES AUTHORIZED IN SECTION TWO THOUSAND FIVE-A OF THIS ARTICLE; ANY FIDUCIARY OR PROVIDER OF ANY CREDIT FACILITY, LIQUIDITY FACILITY OR INTEREST RATE EXCHANGE AGREEMENT WITH RESPECT TO SUCH BONDS; OR ANY OTHER CREDITOR OF THIS FUND.

(C) SUCH FUND SHALL CONSIST OF: (I) ALL MONEYS RECEIVED BY THE HIGHER EDUCATION SERVICES CORPORATION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION SEVEN OF SECTION SIX HUNDRED NINETY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH EDUCATION LOANS THAT THE AGENCY HAS ACQUIRED OR AGREED TO ACQUIRE UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM EDUCATION LOANS; (II) ANY TRANSFERS FROM THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND CREATED BY SECTION SEVENTY-EIGHT-A OF THE STATE FINANCE LAW OR FROM THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND CREATED BY SECTION SEVENTY-EIGHT-B OF THE STATE FINANCE LAW; AND (III) ANY APPROPRIATION PAYMENT OR TRANSFER TO THE AGENCY FOR SUCH PURPOSE.

(D) THE AGENCY SHALL ESTABLISH ACCOUNTS WITHIN THE FUND AND PRIORITIES OF PAYMENT FROM SUCH ACCOUNTS AND SHALL INVEST THE FUND IN COMPLIANCE WITH THE STATE OF NEW YORK MORTGAGE AGENCY ACT.

(E) THIS FUND, INCLUDING ALL SUB-ACCOUNTS THEREOF, SHALL BE SEGREGATED FROM ALL OTHER FUNDS KEPT BY THE AGENCY AND SHALL NOT BE USED FOR ANY OTHER PURPOSE BEYOND THOSE SET FORTH IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW OR IN THIS SECTION. THE AGENCY SHALL UTILIZE MONIES IN THE FUND SOLELY TO PAY THE OUTSTANDING PRINCIPAL, CAPITALIZED AND UNPAID ACCRUED INTEREST ON DEFAULTED EDUCATION LOANS DESCRIBED IN PARAGRAPH A OF THIS SUBDIVISION.

(F) NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE AGENCY, OR THE CORPORATION, FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THIS FUND AND DEPOSITING THEM INTO THE FUND ACCORDING TO LAW, RULES, OR REGULATIONS.

(G) THE AGENCY SHALL MAKE PAYMENTS FROM THE MONIES IN THIS FUND IN AMOUNTS AND AT TIMES REQUIRED PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW.

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

16. THE COMPTROLLER IS HEREBY AUTHORIZED TO DEDUCT FROM THE SALARY OF ANY STATE EMPLOYEE SUCH AMOUNT AS SUCH EMPLOYEE MAY SPECIFY IN WRITING TO BE FILED WITH THE PAYROLL OFFICER OF THE EMPLOYEE'S AGENCY FOR THE PURPOSE OF MAKING PAYMENTS ON OUTSTANDING EDUCATION LOANS MADE PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW AND TO TRANSMIT DEDUCTIONS SO WITHHELD TO THE APPROPRIATE COLLECTING AGENT DESIGNATED BY THE HIGHER EDUCATION SERVICES CORPORATION FOR RECEIPT THEREOF. ANY SUCH

WRITTEN AUTHORIZATION MAY BE WITHDRAWN BY SUCH EMPLOYEE AT ANY TIME UPON FILING WRITTEN NOTICE OF SUCH WITHDRAWAL WITH THE COMPTROLLER. THE COMPTROLLER IS HEREBY AUTHORIZED TO MAKE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO PROVIDE FOR DEDUCTIONS FOR THIS PURPOSE.

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

S 78-A. NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND. 1. THERE IS HEREBY CREATED AND ESTABLISHED IN THE SOLE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND WHICH SHALL BE FOR THE EXCLUSIVE BENEFIT OF THE HOLDERS OF EDUCATION LOANS ORIGINATED PURSUANT TO THE NEW YORK HIGHER EDUCATION LOAN PROGRAM CODIFIED IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW, OTHER THAN VARIABLE RATE EDUCATION LOANS DESCRIBED IN SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW.

2. AMOUNTS HELD IN THIS FUND SHALL NOT BE, OR BE DEEMED, FUNDS OF THE STATE OR FUNDS UNDER THE MANAGEMENT OF THE STATE OR THE HIGHER EDUCATION SERVICES CORPORATION. THE OBLIGATIONS OF THE FUND SHALL NOT BE, OR BE DEEMED, THE DEBTS OR OBLIGATIONS OF THE STATE AND THE STATE SHALL NOT BE, OR BE DEEMED, IN ANY WAY OBLIGATED TO: ANY HOLDER OF ANY SUCH EDUCATION LOAN; ANY HOLDER OF BONDS ISSUED PURSUANT TO THE PUBLIC AUTHORITIES LAW FOR THE PURPOSES OF THE NEW YORK HIGHER EDUCATION LOAN PROGRAM; ANY FIDUCIARY OR PROVIDER OF ANY CREDIT FACILITY, LIQUIDITY FACILITY OR INTEREST RATE EXCHANGE AGREEMENT WITH RESPECT TO SUCH BONDS; OR ANY OTHER CREDITOR OF THIS FUND.

3. SUCH FUND SHALL CONSIST OF ALL MONEYS RECEIVED BY THE HIGHER EDUCATION SERVICES CORPORATION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION SEVEN OF SECTION SIX HUNDRED NINETY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH VARIABLE RATE EDUCATION LOANS MADE UNDER PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW, OTHER THAN VARIABLE RATE EDUCATION LOANS DESCRIBED IN SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW. THE STATE COMPTROLLER, AT THE REQUEST OF THE HIGHER EDUCATION SERVICES CORPORATION, SHALL ESTABLISH ACCOUNTS WITHIN THE FUND AND PRIORITIES OF PAYMENT FROM SUCH ACCOUNTS AND SHALL INVEST THE FUND IN COMPLIANCE WITH APPLICABLE STATE LAWS CONCERNING THE INVESTMENT OF PUBLIC FUNDS. MONEYS IN THE FUND SHALL BE SEGREGATED FROM ALL OTHER FUNDS KEPT BY THE STATE COMPTROLLER AND SHALL NOT BE USED FOR ANY OTHER PURPOSE BEYOND THOSE SET FORTH IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW OR IN THIS SECTION.

4. THE STATE COMPTROLLER SHALL MAKE PAYMENTS FROM THE FUND IN AMOUNTS AND AT TIMES REQUIRED BY THE HIGHER EDUCATION SERVICES CORPORATION PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW. UPON CERTIFICATION BY THE STATE OF NEW YORK MORTGAGE AGENCY THAT A VARIABLE RATE EDUCATION LOAN DESCRIBED IN SUBDIVISION THREE OF THIS SECTION HAS BEEN ACQUIRED BY THE AGENCY OR HAS BECOME SUBJECT TO THE AGREEMENT OF THE AGENCY TO ACQUIRE SUCH EDUCATION LOAN, THE STATE COMPTROLLER SHALL MAKE TRANSFERS FROM THE MONIES IN THE VARIABLE RATE NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND TO THE CORPORATION FOR DEPOSIT INTO THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND CREATED BY SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW IN AMOUNTS CERTIFIED BY THE AGENCY AND THE CORPORATION AS PROPERLY ALLOCABLE TO SUCH EDUCATION LOAN.

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

S 78-B. NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND. 1. THERE IS HEREBY CREATED AND ESTABLISHED IN THE SOLE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND WHICH SHALL BE FOR THE EXCLUSIVE BENEFIT OF THE HOLDERS OF FIXED RATE EDUCATION LOANS ORIGINATED PURSUANT TO THE NEW YORK HIGHER EDUCATION LOAN PROGRAM CODIFIED IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW, OTHER THAN FIXED RATE EDUCATION LOANS DESCRIBED IN SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW.

2. AMOUNTS HELD IN THIS FUND SHALL NOT BE, OR BE DEEMED, FUNDS OF THE STATE OR FUNDS UNDER THE MANAGEMENT OF THE STATE OR THE HIGHER EDUCATION SERVICES CORPORATION. THE OBLIGATIONS OF THE FUND SHALL NOT BE, OR BE DEEMED, THE DEBTS OR OBLIGATIONS OF THE STATE AND THE STATE SHALL NOT BE, OR BE DEEMED, IN ANY WAY OBLIGATED TO: ANY HOLDER OF ANY SUCH EDUCATION LOAN; ANY HOLDER OF BONDS ISSUED PURSUANT TO THE PUBLIC AUTHORITIES LAW FOR THE PURPOSES OF THE NEW YORK HIGHER EDUCATION LOAN PROGRAM; ANY FIDUCIARY OR PROVIDER OF ANY CREDIT FACILITY, LIQUIDITY FACILITY OR INTEREST RATE EXCHANGE AGREEMENT WITH RESPECT TO SUCH BONDS; OR ANY OTHER CREDITOR OF THIS FUND.

3. SUCH FUND SHALL CONSIST OF ALL MONEYS RECEIVED BY THE HIGHER EDUCATION SERVICES CORPORATION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION SEVEN OF SECTION SIX HUNDRED NINETY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH FIXED RATE EDUCATION LOANS, OTHER THAN FIXED RATE EDUCATION LOANS DESCRIBED IN SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW. THE STATE COMPTROLLER, AT THE REQUEST OF THE HIGHER EDUCATION SERVICES CORPORATION, SHALL ESTABLISH ACCOUNTS WITHIN THE FUND AND PRIORITIES OF PAYMENT FROM SUCH ACCOUNTS AND SHALL INVEST THE FUND IN COMPLIANCE WITH APPLICABLE STATE LAWS CONCERNING THE INVESTMENT OF PUBLIC FUNDS. MONEYS IN THE FUND SHALL BE SEGREGATED FROM ALL OTHER FUNDS KEPT BY THE STATE COMPTROLLER AND SHALL NOT BE USED FOR ANY OTHER PURPOSE BEYOND THOSE SET FORTH IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW OR IN THIS SECTION.

4. THE STATE COMPTROLLER SHALL MAKE PAYMENTS FROM THE FUND IN AMOUNTS AND AT TIMES REQUIRED BY THE HIGHER EDUCATION SERVICES CORPORATION PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW. UPON CERTIFICATION BY THE STATE OF NEW YORK MORTGAGE AGENCY THAT A FIXED RATE EDUCATION LOAN DESCRIBED IN SUBDIVISION THREE OF THIS SECTION HAS BEEN ACQUIRED BY THE AGENCY OR HAS BECOME SUBJECT TO THE AGREEMENT OF THE AGENCY TO ACQUIRE SUCH EDUCATION LOAN, THE STATE COMPTROLLER SHALL MAKE TRANSFERS FROM THE MONIES IN THE FIXED RATE NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND TO THE CORPORATION FOR DEPOSIT INTO THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND CREATED BY SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW IN AMOUNTS CERTIFIED BY THE AGENCY AND THE CORPORATION AS PROPERLY ALLOCABLE TO SUCH EDUCATION LOAN.

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

S 1679-C. THE NEW YORK HIGHER EDUCATION LOAN PROGRAM. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANING UNLESS THE CONTEXT SHALL INDICATE ANOTHER OR DIFFERENT MEANING OR INTENT:

(A) "CORPORATION" SHALL MEAN THE NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION.

(B) "EDUCATION LOAN" SHALL MEAN A LOAN MADE UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM ESTABLISHED PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW.

2. IN ADDITION TO THE POWERS OF THE AUTHORITY PURSUANT TO THE OTHER SECTIONS OF THIS TITLE, THE AUTHORITY SHALL HAVE POWER:

(A) TO ENTER INTO ONE OR MORE AGREEMENTS WITH THE CORPORATION, WHICH AGREEMENT MAY PROVIDE FOR THE SECURING OF EDUCATION LOANS IN ACCORDANCE WITH PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW, AND TO PERFORM OR CONTRACT FOR THE PERFORMANCE OF ITS OBLIGATIONS UNDER ANY SUCH AGREEMENT;

(B) TO MAKE AND CONTRACT TO MAKE AND TO ACQUIRE AND CONTRACT TO ACQUIRE EDUCATION LOANS AND TO ENTER INTO ADVANCE COMMITMENTS FOR THE PURCHASE OF SAID EDUCATION LOANS;

(C) SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS, TO INVEST MONEYS OF THE AUTHORITY NOT REQUIRED FOR IMMEDIATE USE, INCLUDING PROCEEDS FROM THE SALE OF ANY BONDS OR NOTES, IN EDUCATION LOANS;

(D) TO SERVICE AND EXECUTE CONTRACTS FOR THE SERVICING OF EDUCATION LOANS ACQUIRED BY THE AUTHORITY PURSUANT TO THIS TITLE, AND TO PAY THE REASONABLE VALUE OF SERVICES RENDERED TO THE AUTHORITY PURSUANT TO THOSE CONTRACTS;

(E) TO PRESCRIBE STANDARDS AND CRITERIA FOR EDUCATION LOANS PURCHASES, INSOFAR AS SUCH STANDARDS AND CRITERIA ARE NOT INCONSISTENT WITH THE APPLICABLE AGREEMENT WITH THE CORPORATION;

(F) SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS, TO SELL ANY EDUCATION LOANS MADE OR ACQUIRED BY THE AUTHORITY AT PUBLIC OR PRIVATE SALE AND AT SUCH PRICE OR PRICES AND ON SUCH TERMS AS THE AUTHORITY SHALL DETERMINE; AND

(G) TO ESTABLISH, REVISE FROM TIME TO TIME, CHARGE AND COLLECT SUCH PREMIUMS OR FEES IN CONNECTION WITH EDUCATION LOANS AND ITS PARTICIPATION IN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM AS THE AUTHORITY SHALL DETERMINE.

3. THE AUTHORITY SHALL HAVE THE POWER AND IS HEREBY AUTHORIZED FROM TIME TO TIME TO ISSUE BONDS AND NOTES, INCLUDING WITHOUT LIMITATION FOR THE PURPOSES OF FINANCING AND REFINANCING EDUCATION LOANS AND OF REFUNDING ANY BONDS OR NOTES ISSUED FOR SUCH PURPOSE PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW.

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

4-a. Any pledge of or other security interest in moneys, earnings, income, revenues, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge or other security interest attaches, without any physical delivery of the collateral or further act. The lien of any such pledge or other security interest shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or other security interest is created nor any financing statement need be recorded or filed. This subdivision shall apply notwithstanding the provisions of the uniform commercial code. ANY MONEYS, EARNINGS, INCOME, REVENUES, ACCOUNTS, CONTRACT RIGHTS, GENERAL INTANGIBLES OR OTHER PERSONAL PROPERTY HELD OR RECEIVED BY THE AUTHORITY OR ON BEHALF OF THE AUTHORITY BY ANY LENDER, SERVICER, TRUSTEE, CUSTODIAN, COLLECTION AGENT OR INSTITUTION OF HIGHER EDUCATION, PURSUANT TO ANY RESOLUTION, TRUST AGREEMENT OR OTHER AGREEMENT AUTHOR-

IZED BY, OR ENTERED INTO IN CONNECTION WITH, THE PROGRAM ESTABLISHED PURSUANT TO SECTION SIXTEEN HUNDRED SEVENTY NINE-C OF THIS TITLE AND PLEDGED BY THE AUTHORITY PURSUANT TO A RESOLUTION, TRUST AGREEMENT OR SUCH OTHER AGREEMENT FOR THE BENEFIT OF BONDHOLDERS SHALL CONSTITUTE MONEYS, EARNINGS, INCOME, REVENUES, ACCOUNTS, CONTRACT RIGHTS, GENERAL INTANGIBLES OR OTHER PERSONAL PROPERTY PLEDGED BY THE AUTHORITY FOR ALL PURPOSES OF THIS SUBDIVISION.

S 15. This act shall take effect July 1, 2009.

PART K

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

(4) The trustees shall not impose a differential tuition charge based upon need or income. All students WHO HAVE RESIDENCY IN NEW YORK STATE, OR OTHERWISE QUALIFY FOR THE RESIDENTIAL RATE OF TUITION AS SET FORTH IN THIS SECTION, AND WHO ARE enrolled in programs leading to like degrees at state-operated institutions of the state university shall be charged a uniform rate of tuition [except for differential tuition rates based on state residency]. Provided, however, that the trustees may authorize the presidents of the colleges of technology and the colleges of agriculture and technology to set differing rates of tuition for each of the colleges for students enrolled in degree-granting programs leading to an associate degree and non-degree granting programs so long as such tuition rate does not exceed the tuition rate charged to students who are enrolled in like degree programs or degree-granting undergraduate programs leading to a baccalaureate degree at other state-operated institutions of the state university of New York. The trustees shall not adopt changes affecting tuition charges prior to the enactment of the annual budget. THE TRUSTEES SHALL ESTABLISH MAXIMUM PERCENTAGE ENROLLMENT LIMITATIONS FOR STUDENTS WHO ARE NOT NEW YORK STATE RESIDENTS, OR WHO DO NOT OTHERWISE QUALIFY FOR THE RESIDENTIAL RATE OF TUITION AS SET FORTH IN THIS SECTION, FOR EACH INDIVIDUAL STATE-OPERATED INSTITUTION AUTHORIZED BY THE TRUSTEES TO CHARGE DIFFERENTIAL TUITION BY DEGREE OR PROGRAM FOR STUDENTS WHO ARE NOT NEW YORK STATE RESIDENTS, OR WHO DO NOT OTHERWISE QUALIFY FOR THE RESIDENTIAL RATE OF TUITION AS SET FORTH IN THIS SECTION.

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

The board of trustees shall establish positions, departments, divisions and faculties; appoint and in accordance with the provisions of law fix salaries of instructional and non-instructional employees therein; establish and conduct courses and curricula; prescribe conditions of student admission, attendance and discharge; and shall have the power to determine in its discretion whether tuition shall be charged and to regulate tuition charges, and other instructional and non-instructional fees and other fees and charges at the educational units of the city university. The trustees shall review any proposed community college tuition increase and the justification for such increase. The justification provided by the community college for such increase shall include a detailed analysis of ongoing operating costs, capital, debt service expenditures, and all revenues. The trustees shall not impose a differential tuition charge based upon need or income. All students WHO HAVE RESIDENCY IN NEW YORK STATE, OR OTHERWISE QUALIFY FOR THE RESIDENTIAL

RATE OF TUITION AS SET FORTH IN THIS SECTION, AND WHO ARE enrolled in programs leading to like degrees at the senior colleges shall be charged a uniform rate of tuition[, except for differential tuition rates based on state residency]. THE TRUSTEES SHALL ESTABLISH MAXIMUM PERCENTAGE ENROLLMENT LIMITATIONS FOR STUDENTS WHO ARE NOT NEW YORK STATE RESIDENTS, OR WHO DO NOT OTHERWISE QUALIFY FOR THE RESIDENTIAL RATE OF TUITION AS SET FORTH IN THIS SECTION, FOR EACH INDIVIDUAL SENIOR COLLEGE AUTHORIZED BY THE TRUSTEES TO CHARGE DIFFERENTIAL TUITION BY DEGREE OR PROGRAM FOR STUDENTS WHO ARE NOT NEW YORK STATE RESIDENTS, OR WHO DO NOT OTHERWISE QUALIFY FOR THE RESIDENTIAL RATE OF TUITION AS SET FORTH IN THIS SECTION. The trustees shall further provide that the payment of tuition and fees by any student who is not a resident of New York state, other than a non-immigrant alien within the meaning of paragraph (15) of subsection (a) of section 1101 of title 8 of the United States Code, shall be paid at a rate or charge no greater than that imposed for students who are residents of the state if such student:

S 3. This act shall take effect immediately.

PART L

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

7. The term "insurer" shall mean a life insurance corporation, or other corporation subject to insurance department supervision OR A REGULATED INVESTMENT COMPANY REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE INVESTMENT COMPANY ACT OF 1940, AS AMENDED, OR A DISTRIBUTOR OF SUCH REGULATED INVESTMENT COMPANIES.

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

1. There is hereby established an optional retirement program which shall provide for the [purchase of contracts providing] retirement and death benefits THROUGH THE PURCHASE OF CONTRACTS, MUTUAL FUNDS, OR OTHER INVESTMENTS PERMISSIBLE UNDER SECTION 401(A) OF THE INTERNAL REVENUE CODE for or on behalf of electing employees. Under such program the state or an electing employer and such employees shall contribute, to the extent authorized or required, towards the purchase of such contracts OR OTHER PERMISSIBLE INVESTMENTS, which shall be issued to, and become the property of, such employees OR BE HELD IN A TRUST FOR THE BENEFIT OF SUCH EMPLOYEES, AS REQUIRED BY SECTION 401(A) OF THE INTERNAL REVENUE CODE. The board of trustees of a community college may elect to offer the optional retirement program to eligible employees of such college by resolution, which shall become effective upon approval of the local sponsor acting through its local legislative body or board or other appropriate governing agency.

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

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

employees, and (iv) the authority and ability of the designated insurer or insurers to provide rights and benefits under such contracts. IN ACCORDANCE WITH SECTION 401(A) OF THE INTERNAL REVENUE CODE, THE BOARD SHALL ESTABLISH A TRUST TO HOLD MUTUAL FUNDS AND OTHER PROGRAM ASSETS AND INVESTMENTS OTHER THAN CONTRACTS FOR THE BENEFIT OF PLAN PARTICIPANTS, AND SHALL DETERMINE WHICH INVESTMENTS TO MAKE AVAILABLE TO PROGRAM PARTICIPANTS (INCLUDING BUT NOT LIMITED TO SHARES OF REGISTERED INVESTMENT FUNDS ("MUTUAL FUNDS")) THROUGH INDIVIDUAL ACCOUNTS UNDER THE TRUST.

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

3. Payment of contributions pursuant to subdivisions one and two of this section shall be made to the designated insurer or insurers OR TO THE TRUST upon audit and warrant of the comptroller for employees of the state university and by the appropriate fiscal officer for employees of an electing employer.

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

4. In the case of an electing employee initially appointed on or after July first, nineteen hundred sixty-four, no contributions pursuant to subdivisions one and two of this section shall be made by the state or by the electing employer until his completion of one year of service and continuance in service thereafter. Employee contributions, if any, required during this initial year of service shall be deducted and held by the comptroller or by the appropriate fiscal officer of an electing employer. At the end of his initial year of service, a single contribution in an amount determined pursuant to subdivisions one and two of this section, with interest at the rate of four percentum per annum, shall be made by the state, upon audit and warrant of the comptroller, and by the appropriate fiscal officer for an electing employer, to the designated insurer or insurers OR TO THE TRUST, on behalf of such employee continued in service. In the case of an electing employee who does not continue in service with state university or with a community college beyond his initial year of service, the amount of employee contribution, if any, deducted from his salary shall be refunded to him, with interest at the rate of four percentum per annum.

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

S 394. Survivor's benefits. In the case of the death of any electing employee, after the effective date of this election and before retirement, the value of [the] ANY death benefits provided by the contract or contracts purchased under the optional retirement program which is attributable to the state's contribution as determined by the board AND ANY VESTED BALANCE IN THE EMPLOYEE'S ACCOUNT IN THE TRUST, shall be deemed to be an ordinary death benefit provided under a public pension plan within the meaning of FORMER section one hundred fifty-four of the civil service law. Notwithstanding the provisions of such section of the civil service law, a survivors benefit payable thereunder on account of the death of any electing employee while in the employ of state university, after the effective date of such election and before retirement, including an employee subject to the provisions of subdivision three of section three hundred ninety-three of this article, shall be paid to such person or persons as such employee shall have nominated to receive the death benefits provided by the contract or contracts purchased under the optional retirement program OR DESIGNATED AS THE EMPLOYEE'S BENEFICIARY OR BENEFICIARIES WITH RESPECT TO THE EMPLOYEE'S

ACCOUNT IN THE TRUST. In the event such designated beneficiary or beneficiaries do not survive the employee, or if a beneficiary was not so designated, the survivors benefit shall be paid to the deceased employee's estate or as provided in FORMER section one hundred three-a of the decedent estate law.

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

S 396. Employer not liable for payment of benefits. Neither the state, nor state university, nor any electing employer or its local sponsor shall be a party to any contract purchased in whole or in part with contributions made under the optional retirement program established and administered pursuant to this article. ALL BENEFITS TO BE PAID FROM THE TRUST SHALL BE BASED SOLELY ON THE VESTED ACCOUNT BALANCE OF SUCH EMPLOYEE. No retirement, death, or other benefits shall be payable by the state, or by state university, or by any electing employer or its local sponsor under such optional retirement program. Such benefits shall be paid to electing employees or their beneficiaries by the designated insurer or insurers OR FROM THE TRUST in accordance with the terms of their contracts OR THE PROGRAM.

S 8. This act shall take effect immediately.

PART M

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

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

S 3. Section 178 of the tax law is REPEALED.

S 4. Subparagraphs (A) and (B) of paragraph 2 of subsection (e) of section 1310 of the tax law, as amended by section 1 of part R of chapter 57 of the laws of 2008, are amended to read as follows:

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

For taxable years beginning:	The credit shall be:
in 2001-2005	$125
in 2006	$230
in 2007-2008	$290
in 2009 AND AFTER	[$310] $125
[after 2009]	[$335]

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

For taxable years beginning:	The credit shall be:
in 2001-2005	$62.50
in 2006	$115
in 2007-2008	$145
in 2009 AND AFTER	[$155] $62.50
[after 2009]	[$167.50]

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

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

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

in 2007-2008	$290
in 2009 AND AFTER	[$310] $125
[after 2009]	[$335]

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

For taxable years beginning:	The credit shall be:
in 2001-2005	$62.50
in 2006	$115
in 2007-2008	$145
in 2009 AND AFTER	[$155] $62.50
[after 2009]	[$167.50]

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

PART N

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

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

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

PART O

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

S 2. This act shall take effect immediately.

PART P

Section 1. Subdivisions 2 and 7 of section 412 of the executive law are REPEALED, and subdivisions 3, 4, 5, and 6 are renumbered subdivisions 2, 3, 4, and 5.

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

3. "Municipality" AS USED IN THIS ARTICLE, shall mean a county[, city, village, town, that part of a town not included within the boundaries of a village, or a school district (if approved for such purpose by the commissioner, in instances where no other municipality, overlapping such

school district in whole or part, is receiving state aid pursuant to this article or upon such other basis as the commissioner shall by regulation determine). Municipality may mean an Indian reservation, subject to rules and regulations of the office] OR THE CITY OF NEW YORK.

4. "Youth program" shall mean a "youth bureau," ["recreation project" or] "youth [service" project established under prior authorizing legislation establishing a temporary state youth commission as well as similar local programs] DEVELOPMENT AND DELINQUENCY PREVENTION PROGRAM," "SPECIAL DELINQUENCY PREVENTION PROGRAM," "RUNAWAY AND HOMELESS YOUTH SERVICES PROGRAM," AS PROVIDED UNDER ARTICLE NINETEEN-H OF THIS CHAPTER, "ALTERNATIVES TO DETENTION AND RESIDENTIAL DIVERSION PROGRAM," AND "DETENTION SERVICES" designed to accomplish the broad purposes of this article. The definition, determination and classification of youth programs shall be subject to approval by the office [in accordance with rules and regulations adopted by it].

5. "State aid" shall mean payments by the state to a municipality for or toward the cost of establishment, operation and/or maintenance of approved youth programs AS PART OF THE YOUTH PROGRAMS BLOCK GRANT in accordance with the provisions of this article.

6. "YOUTH DEVELOPMENT AND DELINQUENCY PREVENTION PROGRAM" SHALL MEAN A COMMUNITY-BASED PROGRAM FOR THE MUNICIPALITY'S YOUTH POPULATION THAT IS DESIGNED TO PROMOTE YOUTH DEVELOPMENT.

7. "SPECIAL DELINQUENCY PREVENTION PROGRAM" SHALL MEAN A COMMUNITY-BASED PROGRAM FOR AT-RISK YOUTH THAT IS DESIGNED TO PREVENT JUVENILE DELINQUENCY AND PROMOTE YOUTH DEVELOPMENT.

8. "ALTERNATIVES TO DETENTION AND RESIDENTIAL DIVERSION PROGRAM" SHALL MEAN A PROGRAM DESIGNED TO DIVERT YOUTH AT-RISK OF ENTERING OR RETURNING TO DETENTION AND/OR A RESIDENTIAL PLACEMENT AS A PERSON IN NEED OF SUPERVISION OR A JUVENILE DELINQUENT.

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

S 420. STATE AID: YOUTH PROGRAMS BLOCK GRANT. 1. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE CONTRARY, ELIGIBLE EXPENDITURES BY A MUNICIPALITY DURING A PARTICULAR CALENDAR YEAR FOR YOUTH PROGRAMS SHALL BE SUBJECT TO STATE REIMBURSEMENT UP TO THE MUNICIPALITY'S ALLOCATION UNDER THE YOUTH PROGRAMS BLOCK GRANT, FOR THE FOLLOWING ACTIVITIES:

A. YOUTH BUREAUS, YOUTH DEVELOPMENT AND DELINQUENCY PREVENTION PROGRAMS, SPECIAL DELINQUENCY PREVENTION PROGRAMS, RUNAWAY AND HOMELESS YOUTH SERVICES PROGRAMS, AND ALTERNATIVES TO DETENTION AND RESIDENTIAL DIVERSION PROGRAMS;

B. CARE, MAINTENANCE AND SUPERVISION PROVIDED TO YOUTH IN JUVENILE DETENTION FACILITIES CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES;

C. CARE, MAINTENANCE AND SUPERVISION PROVIDED TO YOUTH DETAINED BY THE CITY OF NEW YORK PURSUANT TO ARTICLE SEVEN OF THE FAMILY COURT ACT IN FOSTER CARE FACILITIES APPROVED BY THE OFFICE; AND

D. RESERVED ACCOMMODATIONS IN CERTIFIED JUVENILE DETENTION FACILITIES TO ASSURE THAT ADEQUATE ACCOMMODATIONS WILL BE AVAILABLE FOR THE IMMEDIATE RECEPTION AND PROPER CARE THEREIN OF YOUTH, PROVIDED THE OFFICE SHALL HAVE GIVEN ITS PRIOR APPROVAL FOR RESERVING SUCH ACCOMMODATIONS.

2. FOR THE PURPOSES OF THIS SECTION "CARE, MAINTENANCE AND SUPERVISION" SHALL MEAN AND INCLUDE ONLY:

A. TEMPORARY CARE, MAINTENANCE AND SUPERVISION PROVIDED ALLEGED JUVENILE DELINQUENT AND PERSONS IN NEED OF SUPERVISION IN DETENTION FACILITIES CERTIFIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES, PENDING ADJUDICATION OF ALLEGED DELINQUENCY OR ALLEGED NEED OF SUPERVISION BY

THE FAMILY COURT, OR PENDING TRANSFER TO INSTITUTIONS TO WHICH COMMITTED OR PLACED BY SUCH COURT OR WHILE AWAITING DISPOSITION BY SUCH COURT AFTER ADJUDICATION OR HELD PURSUANT TO A SECURING ORDER OF A CRIMINAL COURT IF THE PERSON NAMED THEREIN AS PRINCIPAL IS UNDER SIXTEEN; OR

B. TEMPORARY CARE, MAINTENANCE AND SUPERVISION PROVIDED JUVENILE DELINQUENTS AND PERSONS IN NEED OF SUPERVISION IN APPROVED DETENTION FACILITIES AT THE REQUEST OF THE OFFICE PENDING RELEASE REVOCATION HEARINGS OR WHILE AWAITING DISPOSITION AFTER SUCH HEARINGS; OR

C. TEMPORARY CARE, MAINTENANCE AND SUPERVISION IN APPROVED DETENTION FACILITIES FOR YOUTH HELD PURSUANT TO THE FAMILY COURT ACT OR THE INTERSTATE COMPACT ON JUVENILES, PENDING RETURN TO THEIR PLACE OF RESIDENCE OR DOMICILE; OR

D. TEMPORARY CARE, MAINTENANCE AND SUPERVISION PROVIDED YOUTH DETAINED IN THE CITY OF NEW YORK IN FOSTER CARE FACILITIES PURSUANT TO ARTICLE SEVEN OF THE FAMILY COURT ACT.

3. THE STATE FUNDS APPROPRIATED FOR THE YOUTH PROGRAMS BLOCK GRANT SHALL BE APPORTIONED AMONG THE MUNICIPALITIES BY THE OFFICE OF CHILDREN AND FAMILY SERVICES BASED ON THE MUNICIPALITY'S YOUTH POPULATION, CLAIMING HISTORY, AND OTHER FACTORS DETERMINED BY THE OFFICE. SUCH ALLOCATIONS SHALL BE SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET.

4. THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY SHALL DESIGNATE A LEAD AGENCY FOR THE PURPOSES OF ADMINISTERING THE YOUTH PROGRAMS BLOCK GRANT.

5. THE MUNICIPALITY SHALL DOCUMENT ITS COMPREHENSIVE PLAN FOR THE PROVISION OF YOUTH PROGRAMS UNDER THE YOUTH PROGRAMS BLOCK GRANT AS PART OF THE COUNTY CHILD AND FAMILY SERVICES PLAN SUBMITTED IN ACCORDANCE WITH SECTION THIRTY-FOUR-A OF THE SOCIAL SERVICES LAW.

6. A MUNICIPALITY SHALL SUBMIT CLAIMS FOR REIMBURSEMENT FOR YOUTH PROGRAMS IN SUCH FORM AND MANNER, INCLUDING ELECTRONICALLY, AND AT SUCH TIMES AND FOR SUCH PERIODS AS THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL DETERMINE. WHEN CERTIFIED BY THE OFFICE, STATE REIMBURSEMENT SHALL BE PAID FROM THE STATE TREASURY UPON THE AUDIT AND WARRANT OF THE COMPTROLLER OUT OF FUNDS MADE AVAILABLE THEREFOR. THE OFFICE IS AUTHORIZED IN ITS DISCRETION TO MAKE ADVANCES TO MUNICIPALITIES IN ANTICIPATION OF THE STATE REIMBURSEMENT PROVIDED FOR IN THIS SECTION.

7. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL NOT REIMBURSE ANY CLAIMS FOR EXPENDITURES FOR YOUTH PROGRAMS THAT ARE SUBMITTED MORE THAN NINE MONTHS AFTER THE CALENDAR QUARTER IN WHICH THE SERVICES WERE DELIVERED. ANY PORTION OF A MUNICIPALITY'S ALLOCATION FROM THE YOUTH PROGRAMS BLOCK GRANT FOR A PARTICULAR CALENDAR YEAR THAT IS NOT CLAIMED BY SUCH MUNICIPALITY IN ACCORDANCE WITH THIS SECTION MAY BE REALLOCATED BY THE OFFICE TO OTHER ELIGIBLE MUNICIPALITIES WHICH HAVE CLAIMS IN EXCESS OF THEIR BLOCK GRANT ALLOCATIONS FOR SERVICES PROVIDED DURING THAT SAME CALENDAR YEAR.

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

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

as the office shall require. ANY CITY, TOWN OR VILLAGE DESIRING TO ESTABLISH A YOUTH BUREAU MAY APPLY TO ITS MUNICIPALITY IN WRITING FOR APPROVAL, AND SHALL PROVIDE SUCH INFORMATION AS THE MUNICIPALITY MAY REQUIRE.

4. The approval of any proposed youth program by the office shall authorize the [county, city or] municipality to establish, operate and maintain the program and [entitle it to] MAKE SUCH PROGRAM ELIGIBLE FOR state aid UNDER THE YOUTH PROGRAMS BLOCK GRANT as [herein] set forth IN SECTION FOUR HUNDRED TWENTY OF THIS ARTICLE; provided, however, the office may at any time subsequently withdraw its approval or require changes in a plan or program previously approved.

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

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

S 5. Section 530 of the executive law is REPEALED.

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

4. "Approved runaway program" shall mean any non-residential program approved by the office of children and family services after submission by the [county youth bureau] MUNICIPALITY, as part of its comprehensive plan, IN ACCORDANCE WITH SECTION THIRTY-FOUR-A OF THE SOCIAL SERVICES LAW or any residential facility which is operated by an authorized agency as defined in subdivision ten of section three hundred seventy-one of the social services law, and approved by the office of children and family services after submission by the [county youth bureau] MUNICIPALITY as part of its comprehensive plan IN ACCORDANCE WITH SECTION THIRTY-FOUR-A OF THE SOCIAL SERVICES LAW, established and operated to provide services to runaway and homeless youth in accordance with the regulations of the office of temporary and disability assistance and the office of children and family services. Such programs may also provide non-residential crisis intervention and residential respite services to youth in need of crisis intervention or respite services, as defined in this section. Residential respite services in an approved runaway program may be provided for no more than twenty-one days in accordance with the regulations of the office of children and family services.

6. "Transitional independent living support program" shall mean any non-residential program approved by the office of children and family services after submission by the [county youth bureau] MUNICIPALITY as part of its comprehensive plan IN ACCORDANCE WITH SECTION THIRTY-FOUR-A OF THE SOCIAL SERVICES LAW, or any residential facility approved by the office of children and family services after submission by the [county youth bureau] MUNICIPALITY as part of its comprehensive plan IN ACCORDANCE WITH SECTION THIRTY-FOUR-A OF THE SOCIAL SERVICES LAW, established and operated to provide supportive services, for a period of up to eighteen months in accordance with the regulations of the office of children and family services, to enable homeless youth between the ages of sixteen and twenty-one to progress from crisis care and transitional care to independent living. Such transitional independent living support

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

7. "MUNICIPALITY" AS USED IN THIS ARTICLE SHALL MEAN A COUNTY OR THE CITY OF NEW YORK.

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

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

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

PART Q

Section 1. 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, as amended by section 1 of part I of chapter 57 of the laws of 2007, is amended to read as follows:

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

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

(c) [Community] NOTWITHSTANDING ANY OTHER PROVISION OF LAW, STATE REIMBURSEMENT FOR COMMUNITY preventive services [may be] provided pursuant to this subdivision [through demonstration projects] SHALL BE AVAILABLE ONLY to the extent [the department makes] funds [available for such projects] ARE SPECIFICALLY APPROPRIATED THEREFOR.

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

PART R

Section 1. 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, as amended by section 1 of part J of chapter 59 of the laws of 2007, is REPEALED.

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

PART S

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

S 2. Subdivision 7 of section 335-b of the social services law is REPEALED.

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

PART T

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

10. Social services [district] DISTRICTS providing safety net assistance to persons receiving care as defined in paragraphs (c), (d) and (e) of subdivision three of section two hundred nine of [the social services law] THIS ARTICLE shall pay such facility at the rate provided for care and maintenance under the supplemental security income program for beneficiaries of that program in the same facility, less the amount of any personal needs allowance included in the supplemental security program. In addition, social services districts shall provide such persons receiving safety net assistance with a personal needs allowance in the amount included in the supplemental security payment level as a personal needs allowance for recipients of that program residing in the particular facility; EXCEPT THAT THEY SHALL PROVIDE SUCH PERSONS RESIDING IN A RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM OR COMMUNITY RESIDENTIAL FACILITY FOR ALCOHOLISM, AS THOSE TERMS ARE USED IN PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION TWO HUNDRED NINE OF THIS ARTICLE, WITH A PERSONAL NEEDS ALLOWANCE OF FORTY-FIVE DOLLARS PER MONTH.

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

PART U

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

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

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

(C) IN THE CASE OF EACH INDIVIDUAL RECEIVING ENHANCED RESIDENTIAL CARE, AN AMOUNT EQUAL TO AT LEAST $178.00 FOR EACH MONTH BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE.

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

(1) the amounts specified in paragraphs (a) [and], (b) AND (C) of this subdivision; and

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

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

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

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

(a) (I) On and after January first, two thousand [eight] NINE, for an eligible individual living alone, [$724.00] $761.00; and for an eligible couple living alone, [$1060.00] $1115.00.

(II) ON AND AFTER JUNE FIRST, TWO THOUSAND NINE, FOR AN ELIGIBLE INDIVIDUAL LIVING ALONE, $737.00; AND FOR AN ELIGIBLE COUPLE LIVING ALONE, $1088.00.

(III) ON AND AFTER JANUARY FIRST, TWO THOUSAND TEN, FOR AN ELIGIBLE INDIVIDUAL LIVING ALONE, $744.00; AND FOR AN ELIGIBLE COUPLE LIVING ALONE, $1096.00.

(b) (I) On and after January first, two thousand [eight] NINE, for an eligible individual living with others with or without in-kind income, [$660.00] $697.00; and for an eligible couple living with others with or without in-kind income, [$1002.00] $1057.00.

(II) ON AND AFTER JUNE FIRST, TWO THOUSAND NINE, FOR AN ELIGIBLE INDIVIDUAL LIVING WITH OTHERS WITH OR WITHOUT IN-KIND INCOME, $681.00; AND FOR AN ELIGIBLE COUPLE LIVING WITH OTHERS WITH OR WITHOUT IN-KIND INCOME, $1036.00.

(III) ON AND AFTER JANUARY FIRST, TWO THOUSAND TEN FOR AN ELIGIBLE INDIVIDUAL LIVING WITH OTHERS WITH OR WITHOUT IN-KIND INCOME, $686.00; AND FOR AN ELIGIBLE COUPLE LIVING WITH OTHERS WITH OR WITHOUT IN-KIND INCOME, $1043.00.

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

(c) On and after January first, two thousand [eight] NINE, (i) for an eligible individual receiving family care, [$903.48] $940.48 if he or she is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving family care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, [$865.48] $902.48; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

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

(e) (i) On and after January first, two thousand [eight] NINE, for an eligible individual receiving enhanced residential care, [$1293.00] $1368.00; and (ii) for an eligible couple receiving enhanced residential care, two times the amount set forth in subparagraph (i) of this paragraph.

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

(F) THE AMOUNTS SET FORTH IN SUBPARAGRAPH (III) OF PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION AND THE AMOUNTS SET FORTH IN PARAGRAPHS (C) THROUGH (E) OF THIS SUBDIVISION SHALL BE INCREASED TO REFLECT ANY INCREASES IN FEDERAL SUPPLEMENTAL SECURITY INCOME BENEFITS FOR INDIVIDUALS OR COUPLES WHICH BECOME EFFECTIVE ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN BUT PRIOR TO JUNE THIRTIETH, TWO THOUSAND TEN.

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

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

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

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

PART V

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

(a) to social services districts: (I) with respect to applicants for and recipients of public assistance and care or other benefits pursuant to this chapter for which such districts are responsible[,]; (II) with respect to any person legally responsible for the support of such applicants and recipients [and]; (III) with respect to any person legally responsible for the support of a recipient of services under section one hundred eleven-g of this chapter or to any agent of any entity that is under contract with the child support program pursuant to title [six-a] SIX-A of article three of this chapter[,]; AND (IV) WITH RESPECT TO THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS A CHILD WHO IS IN THE CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL SOCIAL SERVICES DISTRICT OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED, OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-EIGHT-A OF THIS CHAPTER OR SECTION THREE HUNDRED EIGHTY-FOUR-A OF THIS CHAPTER WAS SIGNED, PROVIDED HOWEVER, THAT SUCH SOCIAL SERVICES DISTRICT SHALL ONLY USE THE INFORMATION OBTAINED PURSUANT TO THIS SUBDIVISION FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF SUCH CHILD FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT.

S 2. Subdivision 3 of section 23 of the social services law, as separately amended by chapters 304 and 818 of the laws of 1990, is amended to read as follows:

3. Information obtained by the [department] OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE from the wage reporting system operated by the state department of taxation and finance shall be considered confidential and shall not be disclosed to persons or agencies other than those considered entitled to such information when such disclosure is necessary for the proper administration of programs of public assistance and care or for the proper administration of the child support program pursuant to title six-A of article three of this chapter, OR OF ELIGIBILITY ASSESSMENTS OF CHILDREN FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT. For the purpose of this subdivision, any disclosure made pursuant to subdivision one of this section shall be considered necessary for the proper administration of programs of public assistance and care, OR OF ELIGIBILITY ASSESSMENTS OF CHILDREN FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT; and the federal parent locator service shall be considered an agency entitled to such information as is necessary for the proper administration of the

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

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

(a) Notwithstanding any law to the contrary, the commissioner of taxation and finance shall maintain [a] cooperative [agreement] AGREEMENTS with the state [department of social services] OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, which [agreement] shall provide: (I) for the utilization BY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE of information obtained pursuant to subdivision one [hereof] OF THIS SECTION, for the purpose of verifying eligibility for and entitlement to amounts of benefits under the social services law, locating absent parents or other persons legally responsible for the support of applicants or recipients of public assistance and care under the social services law and persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law and, in appropriate cases, establishing support obligations pursuant to the social services law and the family court act, and for the purpose of evaluating the effect on earnings of participation in employment or training programs authorized pursuant to the social services law by current recipients of public assistance and care and by former recipients of public assistance and care, such agreement shall further provide to the degree required by federal law for the commissioner [of taxation and finance] and the [social services department] OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE to provide information obtained pursuant to subdivision one of this section to the federal social security administration or to public agencies in other states which administer programs under the food stamp act of nineteen hundred seventy-seven or title I, II, IV-A, IV-D, X, XIV, XVI, or XIX of the federal social security act and to take such other steps as may be required by section one thousand one hundred thirty-seven of the social security act or federal regulations promulgated thereunder[.]; AND (II) FOR THE UTILIZATION BY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE OF INFORMATION OBTAINED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, WITH RESPECT TO THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS A CHILD WHO IS IN THE CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL SOCIAL SERVICES DISTRICT OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED, OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-EIGHT-A OR THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW WAS SIGNED, PROVIDED HOWEVER, THAT THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE SHALL ONLY USE THE INFORMATION OBTAINED PURSUANT TO THIS SUBDIVISION, FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF SUCH CHILD FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE IS AUTHORIZED TO SHARE INFORMATION OBTAINED PURSUANT TO THIS SUBDIVISION WITH ANY APPLICABLE SOCIAL SERVICES DISTRICT OR THE OFFICE OF CHILDREN AND FAMILY SERVICES, PROVIDED HOWEVER, THAT IF SUCH INFORMATION IS SHARED, THAT SUCH SOCIAL SERVICES DISTRICT OR THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL ONLY USE THE INFORMATION OBTAINED FOR THE PURPOSE OF DETERMINING OR CONFIRMING THE ELIGIBILITY OF SUCH CHILD FOR FEDERAL

PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT.

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

(3) Nothing herein shall be construed to prohibit the department, its officers or employees from furnishing information to the office of temporary and disability assistance relating to the payment of the credit for certain household and dependent care services necessary for gainful employment under subsection (c) of section six hundred six of this article and the earned income credit under subsection (d) of section six hundred six of this article, or pursuant to a local law enacted by a city having a population of one million or more pursuant to subsection (f) of section thirteen hundred ten of this chapter, only to the extent necessary to calculate qualified state expenditures under paragraph seven of subdivision (a) of section four hundred nine of the federal social security act or to document the proper expenditure of federal temporary assistance for needy families funds under section four hundred three of such act. The office of temporary and disability assistance may redisclose such information to the United States department of health and human services only to the extent necessary to calculate such qualified state expenditures or to document the proper expenditure of such federal temporary assistance for needy families funds. Nothing herein shall be construed to prohibit the delivery by the commissioner to a commissioner of jurors, appointed pursuant to section five hundred four of the judiciary law, or, in counties within cities having a population of one million or more, to the county clerk of such county, of a mailing list of individuals to whom income tax forms are mailed by the commissioner for the sole purpose of compiling a list of prospective jurors as provided in article sixteen of the judiciary law. Provided, however, such delivery shall only be made pursuant to an order of the chief administrator of the courts, appointed pursuant to section two hundred ten of the judiciary law. No such order may be issued unless such chief administrator is satisfied that such mailing list is needed to compile a proper list of prospective jurors for the county for which such order is sought and that, in view of the responsibilities imposed by the various laws of the state on the department, it is reasonable to require the commissioner to furnish such list. Such order shall provide that such list shall be used for the sole purpose of compiling a list of prospective jurors and that such commissioner of jurors, or such county clerk, shall take all necessary steps to insure that the list is kept confidential and that there is no unauthorized use or disclosure of such list. Furthermore, nothing herein shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a certified copy of any return or report filed in connection with his or her tax or to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer or of any employer filed under section one hundred seventy-one-h of this chapter, where such taxpayer or employer shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding under this chapter or under this chapter and article eighteen of the labor law has been recommended by the commissioner, the commissioner of labor with respect to unemployment insurance matters, or the attorney

general or has been instituted, or the inspection of the reports or returns required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a taxpayer under this article, or the furnishing to the state department of labor of unemployment insurance information obtained or derived from quarterly combined withholding, wage reporting and unemployment insurance returns required to be filed by employers pursuant to paragraph four of subsection (a) of section six hundred seventy-four of this article, for purposes of administration of such department's unemployment insurance program, employment services program, federal and state employment and training programs, employment statistics and labor market information programs, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner of labor consistent with the provisions of the labor law, and redisclosure of such information in accordance with the provisions of sections five hundred thirty-six and five hundred thirty-seven of the labor law or any other applicable law, or the furnishing to the state office of temporary and disability assistance of information obtained or derived from New York state personal income tax returns as described in paragraph (b) of subdivision two of section one hundred seventy-one-g of this chapter for the purpose of reviewing support orders enforced pursuant to title six-A of article three of the social services law to aid in the determination of whether such orders should be adjusted, or the furnishing of information obtained from the reports required to be submitted by employers regarding newly hired or re-hired employees pursuant to section one hundred seventy-one-h of this chapter to the state office of temporary and disability assistance, the state department of health, the state department of labor and the workers' compensation board for purposes of administration of the child support enforcement program, verification of individuals' eligibility for one or more of the programs specified in subsection (b) of section eleven hundred thirty-seven of the federal social security act and for other public assistance programs authorized by state law, and administration of the state's employment security and workers' compensation programs, and to the national directory of new hires established pursuant to section four hundred fifty-three-A of the federal social security act for the purposes specified in such section, or the furnishing to the state office of temporary and disability assistance of the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against past-due support pursuant to section one hundred seventy-one-c of this chapter and of the name and social security number of the taxpayer who made such overpayment, or the disclosing to the commissioner of finance of the city of New York, pursuant to section one hundred seventy-one-l of this chapter, of the amount of an overpayment and interest thereon certified to the comptroller to be credited against a city of New York tax warrant judgment debt and of the name and social security number of the taxpayer who made such overpayment, or the furnishing to the New York state higher education services corporation of the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against the amount of a default in repayment of any education loan debt, including judgments, owed to the federal or New York state government that is being collected by the New York state higher education services corporation, and of the name and social security number of the taxpayer who made such overpayment, or the furnishing to the state

department of health of the information required by paragraph (f) of subdivision two and subdivision two-a of section two thousand five hundred eleven of the public health law and by subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, or the furnishing to the state university of New York or the city university of New York respectively or the attorney general on behalf of such state or city university the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against the amount of a default in repayment of a state university loan pursuant to section one hundred seventy-one-e of this chapter and of the name and social security number of the taxpayer who made such overpayment, or the disclosing to a state agency, pursuant to section one hundred seventy-one-f of this chapter, of the amount of an overpayment and interest thereon certified to the comptroller to be credited against a past-due legally enforceable debt owed to such agency and of the name and social security number of the taxpayer who made such overpayment, or the furnishing of employee and employer information obtained through the wage reporting system, pursuant to section one hundred seventy-one-a of this chapter, as added by chapter five hundred forty-five of the laws of nineteen hundred seventy-eight, to the state office of temporary and disability assistance, the department of health or to the state office of the medicaid inspector general for the purpose of verifying eligibility for and entitlement to amounts of benefits under the social services law or similar law of another jurisdiction, locating absent parents or other persons legally responsible for the support of applicants for or recipients of public assistance and care under the social services law and persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law and, in appropriate cases, establishing support obligations pursuant to the social services law and the family court act or similar provision of law of another jurisdiction for the purpose of evaluating the effect on earnings of participation in employment, training or other programs designed to promote self-sufficiency authorized pursuant to the social services law by current recipients of public assistance and care and by former applicants and recipients of public assistance and care, (except that with regard to former recipients, information which relates to a particular former recipient shall be provided with client identifying data deleted), TO THE STATE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF ANY CHILD IN THE CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL SOCIAL SERVICES DISTRICT OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT BY PROVIDING INFORMATION WITH RESPECT TO THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS SUCH CHILD DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED, OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-EIGHT-A OR THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW WAS SIGNED, PROVIDED HOWEVER THAT THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE SHALL ONLY USE THE INFORMATION OBTAINED PURSUANT TO THIS SUBDIVISION FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF SUCH CHILD FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT, and to the state department of labor, or

other individuals designated by the commissioner of labor, for the purpose of the administration of such department's unemployment insurance program, employment services program, federal and state employment and training programs, employment statistics and labor market information programs, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner of labor consistent with the provisions of the labor law, and redisclosure of such information in accordance with the provisions of sections five hundred thirty-six and five hundred thirty-seven of the labor law, or the furnishing of information, which is obtained from the wage reporting system operated pursuant to section one hundred seventy-one-a of this chapter, as added by chapter five hundred forty-five of the laws of nineteen hundred seventy-eight, to the state office of temporary and disability assistance so that it may furnish such information to public agencies of other jurisdictions with which the state office of temporary and disability assistance has an agreement pursuant to paragraph (h) or (i) of subdivision three of section twenty of the social services law, and to the state office of temporary and disability assistance for the purpose of fulfilling obligations and responsibilities otherwise incumbent upon the state department of labor, under section one hundred twenty-four of the federal family support act of nineteen hundred eighty-eight, by giving the federal parent locator service, maintained by the federal department of health and human services, prompt access to such information as required by such act, or to the state department of health to verify eligibility under the child health insurance plan pursuant to subdivisions two and two-a of section two thousand five hundred eleven of the public health law, to verify eligibility under the medical assistance and family health plus programs pursuant to subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, and to verify eligibility for the program for elderly pharmaceutical insurance coverage under title three of article two of the elder law, or to the office of vocational and educational services for individuals with disabilities of the education department, the commission for the blind and visually handicapped and any other state vocational rehabilitation agency, for purposes of obtaining reimbursement from the federal social security administration for expenditures made by such office, commission or agency on behalf of disabled individuals who have achieved economic self-sufficiency or to the higher education services corporation for the purpose of assisting the corporation in default prevention and default collection of education loan debt, including judgments, owed to the federal or New York state government; provided, however, that such information shall be limited to the names, social security numbers, home and/or business addresses, and employer names of defaulted or delinquent student loan borrowers.

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

sion three of section twenty of the social services law), or (C) persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law), or (D) employees about whom wage reporting system information is being furnished to public agencies of other jurisdictions, with which the state office of temporary and disability assistance has an agreement pursuant to paragraph (h) or (i) of subdivision three of section twenty of the social services law, or (E) employees about whom wage reporting system information is being furnished to the federal parent locator service, maintained by the federal department of health and human services, for the purpose of enabling the state office of temporary and disability assistance to fulfill obligations and responsibilities otherwise incumbent upon the state department of labor, under section one hundred twenty-four of the federal family support act of nineteen hundred eighty-eight, and, only if, the office of temporary and disability assistance certifies to the commissioner that such persons are such applicants, recipients, absent parents or persons legally responsible for support or persons about whom information has been requested by a public agency of another jurisdiction or by the federal parent locator service and further certifies that in the case of information requested under agreements with other jurisdictions entered into pursuant to subdivision three of section twenty of the social services law, that such request is in compliance with any applicable federal law. Provided, further, that where the office of temporary and disability assistance requests employee information for the purpose of evaluating the effects on earnings of participation in employment, training or other programs designed to promote self-sufficiency authorized pursuant to the social services law, the office of temporary and disability assistance shall only be furnished with the quarterly gross wages (excluding any reference to the name, social security number or any other information which could be used to identify any employee or the name or identification number of any employer) paid to employees who are former applicants for or recipients of public assistance and care and who are so certified to the commissioner by the commissioner of the office of temporary and disability assistance. Provided, further, that with respect to employee information, the department of health shall only be furnished with the information required pursuant to the provisions of paragraph (f) of subdivision two and subdivision two-a of section two thousand five hundred eleven of the public health law and subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, with respect to those individuals whose eligibility under the child health insurance plan, medical assistance program, and family health plus program is to be determined pursuant to such provisions and with respect to those members of any such individual's household whose income affects such individual's eligibility and who are so certified to the commissioner or by the department of health. Provided, further, that wage reporting information shall be furnished to the office of vocational and educational services for individuals with disabilities of the education department, the commission for the blind and visually handicapped and any other state vocational rehabilitation agency only if such office, commission or agency, as applicable, certifies to the commissioner that such information is necessary to obtain reimbursement from the federal social security administration for expenditures made on behalf of disa-

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

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

(O) EXCHANGE OF INFORMATION WITH THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT SHALL FURNISH TO THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, OR AS DESIGNATED BY THE COMMISSIONER OF THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, TO EMPLOYEES OF A LOCAL SOCIAL SERVICES DISTRICT OR THE OFFICE OF CHILDREN AND FAMILY SERVICES WHO ARE ENGAGED IN THE PROCESS OF DETERMINING OR CONFIRMING THE ELIGIBILITY OF CHILDREN IN THE CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL SOCIAL SERVICES DISTRICT OR THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT, THE NAME, SOCIAL SECURITY NUMBER AND WAGES OF THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS A CHILD WHO IS IN THE CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL SOCIAL SERVICES DISTRICT OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED, OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-EIGHT-A OR THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW WAS SIGNED; PROVIDED HOWEVER, THAT THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, SUCH SOCIAL SERVICES DISTRICT, OR THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL ONLY USE THE INFORMATION OBTAINED PURSUANT TO THIS SUBSECTION FOR THE PURPOSE OF DETERMINING OR CONFIRMING THE ELIGIBILITY OF SUCH CHILD FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT.

S 6. This act shall take effect immediately.

PART W

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

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

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

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

PART X

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

(f) The [department] OFFICE OF CHILDREN AND FAMILY SERVICES shall charge a fee of [five] TWENTY-FIVE dollars when[, pursuant to regulations of the department,] it conducts a search of its records within the statewide central register for child abuse or maltreatment in accordance with this section, THE DOMESTIC RELATIONS LAW, THE FAMILY COURT ACT, THE SURROGATE'S COURT PROCEDURE ACT, or regulations of the [department] OFFICE to determine whether an [applicant for employment as specified in paragraph (b) of this subdivision] INDIVIDUAL is the subject of an indicated child abuse or maltreatment report, except that fees shall not be charged for requests for screenings related to [applications for child day care providers or for employment with child day care providers including requests made pursuant to subdivision six of this section] INDIVIDUALS APPLYING TO BE A FOSTER PARENT OR PROSPECTIVE ADOPTIVE PARENT OF A FOSTER CHILD AND ANY PERSON OVER THE AGE OF EIGHTEEN RESIDING IN THE HOME OF SUCH AN APPLICANT OR TO INDIVIDUALS APPLYING TO OPERATE A FAMILY CARE HOME. Such fees shall be deposited in an account and A PORTION shall be made available to the [department] OFFICE for costs incurred in the implementation of this section. [Procedures for payment of such fees shall be established by the regulations of the department.]

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

PART Y

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

(a) [The] THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND NINE, THE following schedule shall be the standard of monthly need for determining eligibility for all categories of assistance in and by all social services districts:

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

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

(A-1) FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND TEN AND ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, THE FOLLOWING SCHEDULE SHALL BE THE STANDARD OF MONTHLY NEED FOR DETERMINING ELIGIBILITY FOR ALL CATEGORIES OF ASSISTANCE IN AND BY ALL SOCIAL SERVICES DISTRICTS:

NUMBER OF PERSONS IN HOUSEHOLD					
ONE	TWO	THREE	FOUR	FIVE	SIX
$126	$201	$268	$345	$426	$492

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF SIXTY-SEVEN DOLLARS MONTHLY.

(A-2) FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND ELEVEN AND ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN, THE FOLLOWING SCHEDULE SHALL BE THE STANDARD OF MONTHLY NEED FOR DETERMINING ELIGIBILITY

FOR ALL CATEGORIES OF ASSISTANCE IN AND BY ALL SOCIAL SERVICES DISTRICTS:

NUMBER OF PERSONS IN HOUSEHOLD					
ONE	TWO	THREE	FOUR	FIVE	SIX
$141	$225	$300	$386	$477	$551

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF SEVENTY-FIVE DOLLARS MONTHLY.

(A-3) FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE AND THEREAFTER, THE FOLLOWING SCHEDULE SHALL BE THE STANDARD OF MONTHLY NEED FOR DETERMINING ELIGIBILITY FOR ALL CATEGORIES OF ASSISTANCE IN AND BY ALL SOCIAL SERVICES DISTRICTS:

NUMBER OF PERSONS IN HOUSEHOLD					
ONE	TWO	THREE	FOUR	FIVE	SIX
$158	$252	$335	$432	$533	$616

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF EIGHTY-FOUR DOLLARS MONTHLY.

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

(a) [Persons] THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND NINE, PERSONS and families determined to be eligible by the application of the standard of need prescribed by the provisions of subdivision two OF THIS SECTION, less any available income or resources which are not required to be disregarded by other provisions of this chapter, shall receive maximum monthly grants and allowances in all social services districts, in accordance with the following schedule, for public assistance:

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

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

(A-1) FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND TEN AND ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, PERSONS AND FAMILIES DETERMINED TO BE ELIGIBLE BY THE APPLICATION OF THE STANDARD OF NEED PRESCRIBED BY THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, LESS ANY AVAILABLE INCOME OR RESOURCES WHICH ARE NOT REQUIRED TO BE DISREGARDED BY OTHER PROVISIONS OF THIS CHAPTER, SHALL RECEIVE MAXIMUM MONTHLY GRANTS AND ALLOWANCES IN ALL SOCIAL SERVICES DISTRICTS, IN ACCORDANCE WITH THE FOLLOWING SCHEDULE, FOR PUBLIC ASSISTANCE:

NUMBER OF PERSONS IN HOUSEHOLD					
ONE	TWO	THREE	FOUR	FIVE	SIX
$126	$201	$268	$345	$426	$492

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF SIXTY-SEVEN DOLLARS MONTHLY.

(A-2) FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND ELEVEN AND ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN, PERSONS AND FAMILIES DETERMINED TO BE ELIGIBLE BY THE APPLICATION OF THE STANDARD OF NEED PRESCRIBED BY THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, LESS ANY AVAILABLE INCOME OR RESOURCES WHICH ARE NOT REQUIRED TO BE DISREGARDED BY OTHER PROVISIONS OF THIS CHAPTER, SHALL RECEIVE MAXIMUM MONTHLY GRANTS AND ALLOWANCES IN ALL SOCIAL SERVICES DISTRICTS, IN ACCORDANCE WITH THE FOLLOWING SCHEDULE, FOR PUBLIC ASSISTANCE:

NUMBER OF PERSONS IN HOUSEHOLD					
ONE	TWO	THREE	FOUR	FIVE	SIX
$141	$225	$300	$386	$477	$551

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF SEVENTY-FIVE DOLLARS MONTHLY.

(A-3) FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE AND THEREAFTER, PERSONS AND FAMILIES DETERMINED TO BE ELIGIBLE BY THE APPLICATION OF THE STANDARD OF NEED PRESCRIBED BY THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, LESS ANY AVAILABLE INCOME OR RESOURCES WHICH ARE NOT REQUIRED TO BE DISREGARDED BY OTHER PROVISIONS OF THIS CHAPTER, SHALL RECEIVE MAXIMUM MONTHLY GRANTS AND ALLOWANCES IN ALL SOCIAL SERVICES DISTRICTS, IN ACCORDANCE WITH THE FOLLOWING SCHEDULE, FOR PUBLIC ASSISTANCE:

NUMBER OF PERSONS IN HOUSEHOLD					
ONE	TWO	THREE	FOUR	FIVE	SIX
$158	$252	$335	$432	$533	$616

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF EIGHTY-FOUR DOLLARS MONTHLY.

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

PART Z

Section 1. Section 39 of part P2 of 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, as amended by section 1 of part K of chapter 57 of the laws of 2008, is amended to read as follows:

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

S 2. This act shall take effect immediately.

PART AA

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

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

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

E. ANY CIVIL PENALTY IMPOSED PURSUANT TO THIS SUBDIVISION SHALL BE SEPARATELY STATED, AND SHALL BE IN ADDITION TO AND NOT REDUCE OR OFFSET ANY OTHER DAMAGES OR PAYMENT IMPOSED UPON A RESPONDENT PURSUANT TO SUCH SECTION. IN CASES OF EMPLOYMENT DISCRIMINATION WHERE THE EMPLOYER HAS FEWER THAN FIFTY EMPLOYEES, SUCH CIVIL FINE OR PENALTY MAY BE PAID IN REASONABLE INSTALLMENTS, IN ACCORDANCE WITH REGULATIONS PROMULGATED BY

THE DIVISION. SUCH REGULATIONS SHALL REQUIRE THE PAYMENT OF REASONABLE INTEREST RESULTING FROM THE DELAY, AND IN NO CASE PERMIT INSTALLMENTS TO BE MADE OVER A PERIOD LONGER THAN THREE YEARS.

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

PART BB

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

2. The fee for an asbestos handling license shall be [five hundred] ONE THOUSAND dollars, which shall accompany each license application.

3. The renewal fee for an asbestos handling license shall be [three] SIX hundred dollars, which shall accompany each license renewal application.

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

Schedule: Asbestos Handling Certificate Category	Application Fee
Management Planner	[$150] $300
Project Designer	[150] 300
Inspector	[100] 200
Air Monitor	[75] 150
Supervisor	[75] 150
Asbestos Handler	[50] 100
Operation and Maintenance	[50] 100
Restricted Handler	[50] 100
PROJECT MONITOR	300

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

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

Project Size/Linear Feet	Fee

260-429	[$100] $200
430-824	[200] 400
825-1649	[500] 1,000
1650 or more	[1000] 2,000

Project Size/Square Feet	Fee
160-259	[$100] $200
260-499	[200] 400
500-999	[500] 1,000
1000 or more	[1000] 2,000

S 3. Subdivision 3 and paragraph a of subdivision 8 of section 204 of the labor law, subdivision 3 as amended by section 2 of part A of chapter 57 of the laws of 2004 and paragraph a of subdivision 8 as amended by section 3 of part A of chapter 57 of the laws of 2004, are amended to read as follows:

3. Fees. A fee of [two] FOUR hundred dollars shall be charged the owner or lessee of each boiler internally inspected and [seventy-five] ONE HUNDRED FIFTY dollars for each boiler externally inspected by the commissioner, provided however, that the external inspection of multiple boilers connected to a common header or of separate systems owned or leased by the same party and located in the same building, with a combined input which is 300,000 BTU/hour or less, shall be charged a single inspection fee, and further provided that, not more than [two hundred seventy-five] FIVE HUNDRED FIFTY dollars shall be charged for the inspection of any one boiler for any year; except that in the case of an antique steam engine maintained as a hobby and displayed at agricultural fairs and other gatherings, a fee of [twenty-five] FIFTY dollars only shall be charged the owner or lessee thereof for each boiler internally inspected by the commissioner and a fee of [twenty-five] FIFTY dollars only shall be charged for each boiler externally inspected by the commissioner, but not more than [fifty] ONE HUNDRED dollars shall be charged for the inspection of any one such boiler for any year, and except that in the case of a miniature boiler a fee of [fifty] ONE HUNDRED dollars only shall be charged for the inspection of any one such boiler for any year. Such fee shall be payable within thirty days after inspection.

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

non-refundable fee of [fifty] ONE HUNDRED dollars paid for each boiler inspected. If insurance is refused, cancelled or discontinued for the boiler inspected the report shall so state, together with the reasons therefor; the report shall also list any instances of the failure of an owner or lessee of the boiler to comply with the rules of the commissioner.

S 4. This act shall take effect immediately.

PART CC

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

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

2. This article shall not apply to explosives while being transported in conformity with federal law or regulations, nor except as may be herein otherwise provided to persons who manufacture, own, possess, store, use, transport, purchase, sell or give explosives within the territorial boundaries of cities having more than one million inhabitants, nor to ANY OF THE FOLLOWING WHILE IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES: the armed forces of the United States, the national guard, the state guard and duly constituted police and firefighting forces of the state and its civil and political subdivisions.

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

S 451. Definitions. Whenever used in this article: 1. "Explosives" means gunpowder, powders used for blasting, high explosives, blasting materials, detonating fuses, detonators, PYROTECHNICS and other detonating agents, FIREWORKS AND DANGEROUS FIREWORKS AS DEFINED IN SECTION 270.00 OF THE PENAL LAW, smokeless powder and any chemical compound or any mechanical mixture containing any oxidizing and combustible units, or other ingredients in such proportions, quantities, or packing that ignition by fire, friction, concussion, percussion or detonation of any part thereof may CAUSE and is intended to cause an explosion, but shall not include gasoline, kerosene, naphtha, turpentine, benzine, acetone, ethyl ether, benzol [and all] OR quantities of black powder not exceeding five pounds for use in firing of antique firearms or artifacts or replicas thereof. Fixed ammunition and primers for small arms, [firecrackers,] PYROTECHNIC DEVICES WHICH ARE DESIGNED FOR AND BEING USED FOR LEGITIMATE WILDLIFE MANAGEMENT OR CONTROLS, safety fuses and matches shall not be deemed to be explosives when, [as may be determined by the board in its rules] AS PROVIDED BY REGULATION, the individual units contain any of the above-mentioned articles or substances in such limited quantity, of such nature and so packed that it is impossible to produce an explosion of such units to the injury of life, limb or property.

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

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

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

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

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

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

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

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

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

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

11. [A "farmer" is a person who occupies and cultivates land.] "PYROTECHNICS" MEANS ANY COMBUSTIBLE OR EXPLOSIVE COMPOSITIONS OF MANUFACTURED ARTICLES DESIGNED AND PREPARED FOR THE PURPOSE OF PRODUCING AUDIBLE OR VISIBLE EFFECTS THAT ARE COMMONLY REFERRED TO AS FIREWORKS.

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

S 452. Packing and labeling. No person shall own, possess, store, deal in, sell, give or purchase explosives unless the packing, or encasement, and the marking and labeling of such explosives shall comply with the [rules of the board] REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE.

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

S 453. Storage. No person shall store explosives except in a magazine constructed [and], located AND CERTIFIED in accordance with the provisions of this article and the [rules of the board and unless a certificate, which] REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE. THE MAGAZINE CERTIFICATE shall be attached to the magazine on the inside [thereof, has been issued for] OF EACH such magazine. No person shall store more than three hundred thousand pounds of explosives in any one magazine at any time. EXPLOSIVES NOT STORED IN COMPLIANCE WITH THIS SECTION SHALL BE DEEMED TO PRESENT A DANGER TO THE PUBLIC, INCLUDING BUT NOT LIMITED TO, EMERGENCY RESPONDERS AND OTHER PERSONS LAWFULLY FREQUENTING THE AREA AND AS SUCH, ARE SUBJECT TO SEIZURE AND DESTRUCTION PURSUANT TO SUBDIVISION FIVE OF SECTION FOUR HUNDRED SIXTY OF THIS ARTICLE.

This section shall not apply to explosives while being legally blasted or while legally in the custody of a common carrier awaiting shipment or delivery to a consignee during the time permitted by federal law; nor to the storage of such limited amount of sporting or smokeless powders as may be permitted by the [rules of the board] REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE.

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

S 454. Construction of magazines. Unless otherwise prescribed by the [board in its rules] REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE, magazines in which explosives shall be lawfully kept or stored shall be constructed of brick, concrete, [iron] METAL or wood covered with [iron] METAL, and shall have no openings except for ventilation and entrance. All EXPLOSIVE magazines, except those in mines and tunnels, shall be located above ground. All EXPLOSIVE magazines shall be kept clean and dry at all times.

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

S 455. Magazine precautions. 1. No [person] INDIVIDUAL shall unlock [or], open the doors of, OR ACCESS THE CONTENTS OF, EXPLOSIVE magazines, except for the lawful storage or removal of explosives AND IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER. NO EMPLOYER SHALL ALLOW ANY INDIVIDUAL ACCESS TO THE EXPLOSIVE MAGAZINES OR EXPLOSIVES OF THE EMPLOYER UNLESS A LICENSE HAS BEEN ISSUED TO THE INDIVIDUAL BY THE COMMISSIONER AS PROVIDED IN THIS ARTICLE, OR THE INDIVIDUAL IS UNDER THE DIRECT SUPERVISION OF THE LICENSE HOLDER.

No person shall have matches or fire of any kind in any magazine. No person shall store or keep blasting caps, detonating or fulminating caps, or detonators in a magazine in which any other type of explosive is stored or kept. No person shall open any package of explosives within fifty feet of any magazine, nor shall any explosives be kept in a magazine except in the original containers, OR AS OTHERWISE PROVIDED BY REGULATIONS PROMULGATED UNDER THIS ARTICLE. No person shall discharge firearms within five hundred feet of a magazine or explosives factory, or at or against any such building or magazine. Any theft or loss of explosives from a storage magazine or otherwise, shall immediately be reported to the [industrial] commissioner and the state or local police or county sheriff.

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

S 456. Location of magazines. The quantity of explosives that may be stored in any explosives factory or magazine shall depend upon its distances from the nearest building, railroad or highway or other magazine. The distances that a quantity of explosives may be stored from the nearest magazine, building, railroad or highway, shall be as determined by the [rules of the board] REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE. All such distances may be reduced one-half when the magazine, building, railroad or highway to be protected is adequately screened from the explosives factory or magazine by an efficient barricade as defined in subdivision seven of section four hundred fifty-one OF THIS ARTICLE.

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

S 457. RELOCATION OF MAGAZINES. 1. WHEN ANY MAGAZINE IS MOVED FROM THE LOCATION FOR WHICH IT WAS CERTIFIED ACCORDING TO SECTION FOUR HUNDRED FIFTY-SIX OF THIS ARTICLE, AND THE MAGAZINE IS OR IS INTENDED TO BE USED

FOR THE STORAGE OF EXPLOSIVES AND WILL BE IN THE NEW LOCATION FOR MORE THAN TWENTY-FOUR HOURS, THE COMMISSIONER SHALL BE NOTIFIED AS TO THE NEW LOCATION OF THE MAGAZINE. SUCH NOTIFICATION SHALL BE MADE NO LATER THAN ONE BUSINESS DAY PRIOR TO THE MOVE. THE NOTIFICATION SHALL CONTAIN ALL OF THE INFORMATION REQUIRED BY THE COMMISSIONER.

2. THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY WHERE THE RELOCATION HAS BEEN ORDERED BY POLICE, FIRE OR OTHER AUTHORIZED EMERGENCY PERSONNEL, OR WHERE THE CONTINUED STORAGE IN THE CURRENT LOCATION WOULD CONSTITUTE A THREAT TO LIFE OR PROPERTY. IN SUCH CASES THE COMMISSIONER SHALL BE NOTIFIED AS SOON AS PRACTICABLE AFTER THE RELOCATION BUT IN NO CASE MORE THAN TWO BUSINESS DAYS FOLLOWING SUCH RELOCATION.

3. WHEN A MAGAZINE IS ABANDONED, SOLD OR REMOVED FROM SERVICE, THE CERTIFICATE HOLDER SHALL NOTIFY THE COMMISSIONER NO LATER THAN THREE BUSINESS DAYS FROM THE DATE OF SUCH ACTION AND SHALL SURRENDER THE CERTIFICATE TO THE COMMISSIONER.

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

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

Application for such a license shall be made to the commissioner on forms provided and shall contain such information as the commissioner may require. Where the commissioner finds that the applicant has complied with the requirements of this article and the rules promulgated hereunder, the commissioner shall issue [a] SUCH license or renewal thereof which shall be valid for NOT LESS THAN one year from the date of issuance. Such application and each renewal thereof shall be accompanied by a NON-REFUNDABLE fee of NOT LESS THAN fifty dollars [non-refundable] to be payable to the commissioner.

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

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

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

Application for such a certificate shall be made to the commissioner on forms provided and shall contain such information as the commissioner may require. The commissioner, where it is found that the applicant has complied with the requirements of this article, [and], the rules promulgated hereunder and all other applicable sections of this chapter and regulations promulgated by the commissioner, shall issue a certificate or a renewal thereof, which shall be valid for NOT LESS THAN one year from the date of issuance. In addition to any other causes for revocation of a certificate hereinafter provided, the commissioner may revoke or modify such certificate because of any change in the conditions under which it was granted, or for failure to pay the [annual] REQUIRED fee [hereinafter provided]. The owner or user of a magazine shall [annually] pay to the commissioner [in advance] a fee[, subject to the discretion of the commissioner and] OF not less than fifty dollars, which shall be proportioned according to the quantity and type of explosives authorized by the certificate to be stored in the magazine.

4. An application for a license or a certificate pursuant to [subdivision one, two or three of] this section [shall be sworn to under oath and] shall contain information sufficient to identify the applicant, and the purpose for which and the place where the explosives are to be used, manufactured, dealt in, given, disposed of or stored, as the case may be, and to demonstrate the eligibility of such applicant for the license or certificate requested. The commissioner may require that the application include, among other things, photographs, fingerprints and personal references. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check. AN APPLICATION FOR A LICENSE OR CERTIFICATE REQUIRED TO BE FILED WITH THE DEPARTMENT PURSUANT TO THIS SECTION SHALL BE SIGNED BY THE APPLICANT AND AFFIRMED BY HIM OR HER AS TRUE UNDER PENALTY OF PERJURY.

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

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

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

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

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

7. The commissioner may waive any of the procedures set forth in PARAGRAPH (B) OF subdivision six [(a)] of this section with respect to any applicant [who has a license or certificate which was issued pursuant to this section at any time prior to March first, nineteen hundred seventy, and which was legally valid and effective on such date. The commissioner also may waive fingerprinting of an applicant who has a valid license for a pistol or revolver in accordance with section 400.00 of the penal law] FOR WHOM CRIMINAL HISTORY OR OTHER INFORMATION HAS BEEN OBTAINED FROM ANY FEDERAL BUREAU OR AGENCY.

8. [Exceptions.] Except for the provisions of subdivision eleven OF THIS SECTION, this section shall not apply to smokeless powder.

9. Within thirty days after the issuance of a license or certificate under this section, the commissioner shall notify the chief executive officer of the municipality where the licensee resides or where the certificate holder has his OR HER place of business of the issuance of such license or certificate, and provide such officer with such other information pertaining thereto [as the board may from time to time prescribe] AS THE COMMISSIONER MAY PRESCRIBE.

10. Agencies of the United States, the state and its political and civil subdivisions which are subject to the requirements of this article and which, in the exercise of their functions, are required to purchase, own, store, use or transport explosives shall not be liable for the payment of any fee required by this section.

11. No explosives shall be sold, given or delivered to any [person] INDIVIDUAL under eighteen years of age, whether such [person] INDIVIDUAL is acting for himself, HERSELF or for another person, nor shall any such [person] INDIVIDUAL be eligible to obtain any license or certificate required under this section.

S 10. Section 459 of the labor law, as added by chapter 809 of the laws of 1949, subdivision 1 as amended by chapter 1022 of the laws of 1970, is amended to read as follows:

S 459. Denial or revocation of license or certificate. 1. A license or certificate, [its] OR THE renewal [or continuation] THEREOF may be denied where the commissioner has probable reason to believe, based on knowledge or reliable information, or finds, after [due] investigation, that the applicant or any officer, servant, agent or employee of the applicant is not sufficiently reliable and experienced to be authorized to own, possess, store, transport, use, manufacture, deal in, sell, purchase or otherwise handle, as the case may be, explosives, lacks suitable facilities therefor, has been convicted of a [crime for which he has been sentenced to serve one or more years in prison] FELONY, is disloyal or hostile to the United States [or], has been confined as a patient or inmate in a public or private institution for the treatment of mental diseases OR HAS BEEN CONVICTED UNDER SECTION FOUR HUNDRED EIGHTY-FOUR OF THE GENERAL BUSINESS LAW. Whenever the commissioner denies an application for a license or certificate or the renewal thereof, [he shall,] within five days of such denial, [give] notice thereof and the reasons therefor SHALL BE PROVIDED in writing to the applicant [personally or by mail to the address given in the application]. Such denial may be appealed to the commissioner who shall follow the procedure provided by subdivision [three] FOUR of this section.

2. The commissioner may revoke any certificate or license on any ground or grounds authorized in subdivision one of this section for the denial of a license or certificate, or for a violation of the terms of such license or certificate, or for a violation of any provision of this article or [of the rules of the board] REGULATIONS PROMULGATED

HEREUNDER, or for non-compliance with any order issued by the commissioner within the time specified in such order.

[Where the] THE commissioner MAY, WHERE HE OR SHE has probable reason to believe, based on knowledge or reliable information, that a licensee or certificate holder is disloyal to the United States, [he may] summarily revoke the license or certificate or may[, in his discretion,] give such licensee or certificate holder notice and opportunity to be heard as provided in subdivision [three] FOUR of this section. Revocation of a license or certificate for any other ground may be ordered only after giving written notice and an opportunity to be heard to the holder thereof. Such notice [may be given to the holder personally or by mail and] shall specify the ground or grounds on which it is proposed to revoke the license or certificate. When a license or certificate is revoked, the commissioner may direct the SEIZURE AND/OR disposition of explosives held by such licensee or certificate holder. Upon revocation of a license or certificate by the commissioner, the holder thereof shall surrender [his] THE license or certificate to the commissioner at once.

3. THE COMMISSIONER MAY SUMMARILY SUSPEND THE LICENSE OR CERTIFICATE PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION, WHERE HE OR SHE HAS REASON TO BELIEVE, BASED ON KNOWLEDGE OR RELIABLE INFORMATION, THAT THE CONTINUED POSSESSION OF A LICENSE OR CERTIFICATE POSES A DANGER TO PUBLIC HEALTH, SAFETY OR WELFARE, AND INCORPORATES A FINDING TO THAT EFFECT IN HIS OR HER ORDER. THESE PROCEEDINGS SHALL BE PROMPTLY INSTITUTED AND DETERMINED. SUCH SUSPENSION SHALL BE EFFECTIVE ON THE DATE SPECIFIED IN THE ORDER OR UPON SERVICE OF A CERTIFIED COPY OF SUCH ORDER ON THE LICENSE OR CERTIFICATE HOLDER, WHICHEVER SHALL BE LATER.

[3. Hearings] 4. Unless, within fifteen days from the date of notice, the applicant for a license or certificate or the recipient of a notice stating that the commissioner proposes to revoke a license or certificate held by him OR HER, shall file a written answer with the commissioner denying the ground or grounds on which a license or certificate has been denied OR NOT RENEWED or ground or grounds on which revocation of a license or certificate is sought, and shall request a hearing, the commissioner may make a final determination respecting the application for a license or certificate, or may revoke a license or certificate forthwith. If, within such fifteen days, the applicant, licensee or certificate holder files such answer and request for hearing, the commissioner shall schedule a hearing. The notice of hearing shall state the time, place, and subject of the hearing, and shall be mailed to the applicant, certificate holder or licensee at his OR HER last known address at least five days before the date of hearing. Hearings shall be held by the commissioner or his OR HER representative, and the applicant, certificate holder or licensee may appear in person or may be represented by an agent. After such hearing, the commissioner shall render [his] A decision in writing.

S 11. Section 460 of the labor law, as added by chapter 809 of the laws of 1949, is amended to read as follows:

S 460. Seizure, impounding, destruction or disposition of explosives. 1. The commissioner is hereby authorized and empowered, without application to any court, to seize and impound any explosives found within this state, except in cities having a population of more than one million inhabitants, which are in apparent violation of any of the provisions of this article, [rules of the board] REGULATIONS PROMULGATED HEREUNDER or laws or regulations of the federal government, or which have been abandoned or lost, or where the commissioner has reason to believe that public safety is endangered by such explosives. Such explosives may be

removed and transported by the commissioner and stored in magazines provided or obtained for that purpose by the state or by the commissioner.

2. The owner of such explosives may, within five days of such seizure, make written demand upon the commissioner for a hearing. Upon such demand, the commissioner shall give the owner written notice [in person or by mail,] of the time and place of such hearing to be held not less than ten days thereafter.

3. Where no hearing is demanded within the time herein prescribed or where, after hearing, the commissioner finds that there has been a violation of the provisions of this article, [rules of the board] REGULATIONS PROMULGATED HEREUNDER or laws or regulations of the federal government, or that public safety is endangered, [he] THE COMMISSIONER may destroy or order the destruction of such explosives WITHOUT LIABILITY, or direct such other disposition of the explosives [as he deems proper]. If the commissioner finds there has been no such violation and that public safety has not been endangered, [he shall return] such explosives SHALL BE RETURNED to the owner thereof.

4. Where such explosives have been abandoned or lost, and no claimant has appeared within thirty days, demanded the return of the explosives and proved, to the satisfaction of the commissioner, [his] THE CLAIMANT'S title to and right of possession of such explosives, the commissioner may destroy or direct the destruction thereof, or direct such other disposition thereof as [he deems] IS DEEMED proper.

5. Any provision herein to the contrary notwithstanding, where, in the opinion of the commissioner, the manufacture, condition, STORAGE, packing or location of explosives is such that its continued existence or transportation is a danger to public safety, [he] THE COMMISSIONER may, without hearing and without liability therefor to the owner thereof, seize and destroy or direct the seizure and destruction of such explosives.

S 12. Section 461 of the labor law, as added by chapter 809 of the laws of 1949, subdivision 1 as amended by chapter 150 of the laws of 1971 and subdivision 3 as amended by chapter 1022 of the laws of 1970, is amended to read as follows:

S 461. Record and notice of sales, deliveries or gifts. 1. Every person selling, delivering [or], giving away [an explosive] OR OTHERWISE TRANSFERRING OR DISPOSING OF EXPLOSIVES shall keep at his OR HER principal office or place of business within the state, a record of the transaction, including the name or type and quantity of the explosive, such identification of the explosive as may be required by [rules of the board] THE REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE, the date of each sale, delivery [or], gift, TRANSFER OR DISPOSITION, the name and business address of the purchaser, donee, RECIPIENT or person to whom delivered, the number of the license [to own or possess explosives], if such license is required by section four hundred fifty-eight of this article, and the name and address of the person taking the explosives away. A report of all such transactions, when requested [by him], shall be submitted to the commissioner. Such record shall be open to inspection by the commissioner or by federal, state and local enforcement officers at all times. No person shall have in his OR HER possession any explosives unless he OR SHE has a bill of sale or other evidence of title thereto.

2. Any provision in this article to the contrary notwithstanding, no person in a city having more than one million inhabitants shall ship or transport or cause to be shipped or transported explosives from such

city to any other place within the state, unless such person shall, at least twenty-four hours prior to such shipment, transmit to the commissioner a statement in writing giving the weight, name or brand and type of explosives, the name and address of the person to whom such explosives are to be sold, shipped, transported or delivered and the date thereof. UPON RECEIPT OF SUCH STATEMENT, THE COMMISSIONER SHALL PROVIDE IMMEDIATE WRITTEN NOTICE OF SUCH SHIPMENT OR TRANSPORTATION OF EXPLOSIVES TO THE MAYOR OF A CITY HAVING MORE THAN ONE MILLION INHABITANTS, OR TO THE DESIGNEE OF THE MAYOR. No person shall make any such shipment except to a holder of a license issued hereunder.

3. No person within the state shall purchase, receive or accept delivery of explosives from any place outside the state, and no person shall bring explosives into the state from any place outside the state, unless, [in addition to holding a license issued hereunder, such person shall, not more than twenty-four hours thereafter, transmit to the commissioner by mail a written statement giving] HE OR SHE IS IN POSSESSION OF A VALID LICENSE ISSUED BY THE COMMISSIONER. THE LICENSEE RECEIVING THE EXPLOSIVES SHALL MAINTAIN A RECORD INCLUDING THE weight, name or brand and type of the explosives, the name and address of the shipper and the date of shipment, FOR A PERIOD OF THREE YEARS FROM THE DATE OF RECEIPT OR TWO YEARS FROM THE DATE OF FINAL DISPOSITION OF THE EXPLOSIVES WHICHEVER OCCURS LAST.

S 13. Section 462 of the labor law, as amended by chapter 190 of the laws of 1989, is amended to read as follows:

S 462. Rules and regulations. The commissioner may make rules supplemental to this article as [he shall deem] DEEMED necessary or desirable to assure the public safety as well as to provide reasonable and adequate protection of the lives, health and safety of persons employed in the manufacture, storage, handling [and], use, PURCHASE, SALE, DISPOSITION AND OWNERSHIP of explosives. The commissioner may prescribe such regulations as [he may deem] ARE DEEMED necessary and proper for the administration of this article. THE COMMISSIONER SHALL BY RULE ADOPT THE CODES, STANDARDS AND RECOMMENDED PRACTICES PROMULGATED BY THE MOST RECENT EDITION OF NATIONAL FIRE PROTECTION ASSOCIATION, 1123 AND 1126 STANDARDS ON FIREWORKS DISPLAYS AND USE OF PYROTECHNICS BEFORE A PROXIMATE AUDIENCE, IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AND ARTICLE TWENTY-EIGHT-D OF THE GENERAL BUSINESS LAW.

S 14. Section 463 of the labor law, as added by chapter 809 of the laws of 1949, is amended to read as follows:

S 463. Review. All questions of fact arising under this article shall be decided by the commissioner and there shall be no appeal from [his] SUCH decision on any such question of fact[, but there shall be a right of review by the board of standards and appeals of any decision of the commissioner denying an application for a license or certificate, or denying the renewal thereof, or revoking a license or certificate, as provided in section one hundred ten, article three of the labor law]. UPON THE ENTRY OF AN ORDER ISSUED UNDER SECTIONS FOUR HUNDRED FIFTY-NINE AND FOUR HUNDRED SIXTY OF THIS ARTICLE, ANY PARTY AGGRIEVED THEREBY MAY COMMENCE A PROCEEDING FOR REVIEW THEREOF PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES WITHIN THIRTY DAYS FROM THE NOTICE OF THE FILING OF THE SAID ORDER IN THE OFFICE OF THE COMMISSIONER. SAID PROCEEDING SHALL BE COMMENCED DIRECTLY IN THE APPELLATE DIVISION OF THE SUPREME COURT. NOTHING IN THIS SECTION SHALL IN ANY WAY LIMIT, QUALIFY OR PREVENT THE COMMISSIONER FROM DESTROYING EXPLOSIVES AS PROVIDED UNDER SECTION FOUR HUNDRED SIXTY OF THIS ARTICLE.

S 15. Section 464 of the labor law, as amended by chapter 307 of the laws of 1984, is amended to read as follows:

S 464. [Penalties] COSTS AND PENALTIES. 1. IF THE COMMISSIONER DIRECTS THE STORAGE, DESTRUCTION OR OTHER DISPOSITION OF EXPLOSIVES PURSUANT TO THE PROVISIONS OF SECTION FOUR HUNDRED FIFTY-NINE OR FOUR HUNDRED SIXTY OF THIS ARTICLE, THE COMMISSIONER MAY ISSUE AN ORDER WHICH SHALL SET FORTH THE COSTS OF SUCH STORAGE, TRANSPORTATION, HANDLING, DESTRUCTION OR OTHER DISPOSITION AND ASSESS SUCH COSTS AGAINST THE OWNER OF SUCH EXPLOSIVES, WHICH SHALL BE IN ADDITION TO ANY OTHER PENALTIES IMPOSED.

2. (A) IF THE COMMISSIONER DETERMINES THAT ANY PERSON HAS VIOLATED ANY PROVISION OF THIS ARTICLE, SECTION FOUR HUNDRED EIGHTY-TWO OF THE GENERAL BUSINESS LAW RELATING TO BLASTERS AND PYROTECHNICIANS, OR ANY RULE OR REGULATION PROMULGATED THEREUNDER, THE COMMISSIONER MAY ISSUE AN ORDER WHICH SHALL DESCRIBE THE NATURE OF THE VIOLATION AND ASSESS SUCH PERSON A CIVIL PENALTY OF UP TO TEN THOUSAND DOLLARS PER VIOLATION PER DAY UNTIL THE VIOLATION IS CORRECTED. THE PENALTY AUTHORIZED PURSUANT TO THIS PARAGRAPH SHALL BE PAID TO THE COMMISSIONER FOR DEPOSIT IN THE TREASURY OF THE STATE. IN ASSESSING THE AMOUNT OF THE PENALTY, THE COMMISSIONER SHALL GIVE DUE CONSIDERATION TO THE SIZE OF THE PERSON'S BUSINESS, THE GOOD FAITH EFFORT OF THE PERSON, THE GRAVITY OF THE VIOLATION, AND THE HISTORY OF PREVIOUS VIOLATIONS.

(B) WHENEVER THE COMMISSIONER ISSUES AN ORDER UNDER THIS SECTION AGAINST A PERSON, THE COMMISSIONER SHALL SERVE NOTICE OF THE ORDER BY REGISTERED MAIL UPON THE PERSON AT HIS OR HER LAST KNOWN ADDRESS. WITHIN FIVE DAYS OF SERVICE OF THE ORDER, THE PERSON MAY MAKE WRITTEN DEMAND UPON THE COMMISSIONER FOR A HEARING WHEREUPON THE COMMISSIONER SHALL GIVE SUCH PERSON WRITTEN NOTICE OF THE TIME AND PLACE OF THE HEARING TO BE HELD NOT LESS THAN TEN DAYS THEREAFTER.

(C) UPON THE ENTRY OF AN ORDER ISSUED FOLLOWING A HEARING UNDER THIS SECTION, ANY PARTY AGGRIEVED BY AN ORDER ISSUED UNDER THIS SUBDIVISION OR SUBDIVISION ONE OF THIS SECTION MAY COMMENCE A PROCEEDING FOR REVIEW THEREOF PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES WITHIN THIRTY DAYS FROM THE NOTICE OF THE FILING OF THE SAID ORDER IN THE OFFICE OF THE COMMISSIONER. SAID PROCEEDING SHALL BE COMMENCED DIRECTLY IN THE APPELLATE DIVISION OF THE SUPREME COURT.

(D) PROVIDED THAT NO PROCEEDING FOR JUDICIAL REVIEW AS PROVIDED FOR IN THIS SECTION SHALL THEN BE PENDING AND THE TIME FOR INITIATION OF SUCH PROCEEDING SHALL HAVE EXPIRED, THE COMMISSIONER MAY FILE WITH THE COUNTY CLERK OF THE COUNTY WHERE THE PERSON RESIDES OR HAS A PLACE OF BUSINESS, THE ORDER OF THE COMMISSIONER, CONTAINING THE AMOUNT OF THE CIVIL PENALTY. THE FILING OF SUCH ORDER OR DECISION SHALL HAVE THE FULL FORCE AND EFFECT OF A JUDGMENT DULY DOCKETED IN THE OFFICE OF SUCH CLERK, THE ORDER OR DECISION MAY BE ENFORCED BY AND IN THE NAME OF THE COMMISSIONER IN THE SAME MANNER, AND WITH LIKE EFFECT, AS THAT PRESCRIBED BY THE CIVIL PRACTICE LAW AND RULES FOR THE ENFORCEMENT OF A MONEY JUDGMENT.

(E) A CIVIL PENALTY PROVIDED FOR IN THIS SUBDIVISION SHALL BE IN ADDITION TO AND MAY BE IMPOSED CONCURRENTLY WITH ANY OTHER PENALTY OR REMEDY PROVIDED FOR IN THIS ARTICLE.

3. Any person violating any provision of this article, or any rule or regulation made hereunder, shall be guilty of a class E felony; provided, however, that any person who possesses an explosive without being duly licensed or otherwise authorized to do so under the provisions of this article shall be guilty of a class D felony. Whenever, as a result of a plea bargaining agreement the charge is reduced to a lesser offense, such offense may, in addition to any term of imprison-

ment prescribed by such offense, be punishable by a fine not to exceed twenty-five hundred dollars.

S 16. Section 480 of the general business law, as added by chapter 754 of the laws of 1975, is amended to read as follows:

S 480. Legislative findings. The legislature hereby finds that the use of lasers and radioactive materials, the operation of cranes [and], the detonation of explosives, AND THE PREPARATION AND FIRING OF PYROTECHNICS involve such elements of potential danger to the lives, health and safety of the citizens of this state and to their property that special regulations are necessary to insure that only persons of proper ability and experience shall engage in such uses and operations.

The legislature hereby declares that this article shall be deemed an exercise of the police power of this state for the protection of the lives, health and safety of citizens in this state and of their property.

S 17. Section 481 of the general business law, as added by chapter 754 of the laws of 1975, subdivision 3 as amended by chapter 569 of the laws of 1982 and subdivision 5 as amended by section 1 of part B of chapter 58 of the laws of 2006, is amended to read as follows:

S 481. Definitions. As used in this article:

1. "Laser" means light amplification by simulated emission of radiation.

2. "Radioactive material" means any material in any form that emits ionizing radiation spontaneously. "Radiation equipment" means any equipment or device which can emit ionizing or non-ionizing radiation.

3. "Crane" includes but is not limited to cranes and equipment of the following types: a mobile, carrier-mounted, power-operated hoisting machine utilizing a power-operated boom which moves laterally by rotation of the machine on the carrier, tower cranes, hydraulic cranes and power-operated derricks; provided, however, that "crane" shall not include public utility company line trucks used by a public utility company in the construction and maintenance of its generation, transmission and distribution facilities.

4. "Blaster" means a person who performs the act of preparation for detonation and the detonation of an explosive.

5. "PYROTECHNICIAN" MEANS A PERSON WHO PERFORMS THE PREPARATION FOR AND THE FIRING OF PYROTECHNICS, AS DEFINED IN ARTICLE SIXTEEN OF THE LABOR LAW.

6. "Commissioner" means the commissioner of labor of the state of New York, except that any reference to the commissioner with respect to radioactive material, as defined in this article, or radiation equipment, as defined in this article, shall be a reference to the commissioner of health of the state of New York.

S 18. Section 482 of the general business law, as amended by section 2 of part B of chapter 58 of the laws of 2006, is amended to read as follows:

S 482. Licensing and registration. 1. No individual shall use lasers, operate a crane [or], act as a blaster OR AS A PYROTECHNICIAN without holding a valid certificate of competence issued by the commissioner of labor.

2. No person shall possess or use any radioactive material without a valid license issued by the commissioner of health. Every installation and mobile source consisting of radiation equipment shall be registered with the commissioner of health.

3. No employer, contractor or agent thereof shall knowingly permit any individual to use lasers, operate a crane or act as a blaster OR AS A

PYROTECHNICIAN without holding a valid certificate of competence issued by the commissioner of labor.

S 19. Paragraph a of subdivision 1 and subdivision 2 of section 483 of the general business law, paragraph a of subdivision 1 as amended by section 3 of part B of chapter 58 of the laws of 2006, subdivision 2 as added by chapter 754 of the laws of 1975, are amended to read as follows:

a. The commissioner of labor is hereby authorized and directed to prescribe such rules and regulations as may be necessary and proper for the administration and enforcement of this article with respect to lasers, crane operators [and], blasters AND PYROTECHNICIANS.

2. Such regulations may provide for examinations, categories of certificates, licenses, or registrations, age and experience requirements, payment of fees, and may also provide for such limitations and exemptions as the commissioner finds necessary and proper. In the case of blasters AND PYROTECHNICIANS, such regulations may require fingerprinting, and in the case of users of radioactive material, such regulations may require the posting of a bond or other security.

S 20. Section 484 of the general business law, as added by chapter 754 of the laws of 1975, subdivision 1 as amended by section 4 of part B of chapter 58 of the laws of 2006 and subdivision 2 as amended and subdivision 3 as added by chapter 569 of the laws of 1982, is amended to read as follows:

S 484. Enforcement. 1. a. For the purpose of administering and enforcing the provisions of this article with respect to lasers, cranes [and], blasters AND PYROTECHNICIANS, the commissioner of labor shall have and may use all of the powers conferred upon him or her by the labor law, in addition to the powers conferred herein.

b. For the purpose of administering and enforcing the provisions of this article with respect to radioactive material and radiation equipment the commissioner of health shall have and may use all of the powers conferred upon him or her by the public health law, in addition to the powers conferred in this article.

2. [A violation of] ANY PERSON WHO VIOLATES any provision of this article or of any rule or regulation of the commissioner promulgated hereunder or of any rule or regulation promulgated pursuant to paragraph b of subdivision two of section four hundred eighty-five of this article shall be GUILTY OF a misdemeanor, AND UPON CONVICTION SHALL BE PUNISHED, BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS; FOR A SECOND OFFENSE BY A FINE OF NOT LESS THAN ONE THOUSAND NOR MORE THAN THREE THOUSAND DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR BY BOTH SUCH FINE AND IMPRISONMENT; FOR A SUBSEQUENT OFFENSE BY A FINE OF NOT LESS THAN THREE THOUSAND DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH SUCH FINE AND IMPRISONMENT.

3. Where the employer, contractor or agent thereof permitting a violation of any provision of this article or of any rule or regulation of the commissioner promulgated hereunder or of any rule or regulation promulgated pursuant to paragraph b of subdivision two of section four hundred eighty-five of this article shall be a corporation, then in addition to the corporation, the officer or agent of such corporation who knowingly permits the corporation to violate such provisions is guilty of a misdemeanor; and upon conviction thereof shall be punished for a first offense by a fine of not more than one [hundred] THOUSAND dollars; for a second offense by a fine of not less than one [hundred] THOUSAND nor more than [five hundred] THREE THOUSAND dollars, or by imprisonment for not more than [thirty days] ONE YEAR or by both such

fine and imprisonment; for a subsequent offense by a fine of not less than three [hundred] THOUSAND dollars or by imprisonment for not more than [sixty days] ONE YEAR, or by both such fine and imprisonment.

S 21. Subdivisions 2, 3, 3-a and 4 of section 405.00 of the penal law, subdivision 3-a as added by chapter 151 of the laws of 2002, are amended to read as follows:

2. Permits for [public] FIREWORKS displays. Notwithstanding the provisions of section 270.00 OF THIS CHAPTER, the permit authority of a state park, county park, city, village or town may [upon application in writing,] grant a permit for the [public] display of fireworks [by] TO municipalities, fair associations, amusement parks, PERSONS, or organizations of individuals THAT SUBMIT AN APPLICATION IN WRITING. The application for such permit shall set forth:

(a) The name of the body sponsoring the display and the names of the persons actually to be in charge of the firing of the display WHO SHALL POSSESS A VALID CERTIFICATE OF COMPETENCE AS A PYROTECHNICIAN AS REQUIRED UNDER THE GENERAL BUSINESS LAW AND ARTICLE SIXTEEN OF THE LABOR LAW. THE PERMIT APPLICATION SHALL FURTHER CONTAIN A VERIFIED STATEMENT FROM THE APPLICANT IDENTIFYING THE INDIVIDUALS WHO ARE AUTHORIZED TO FIRE THE DISPLAY INCLUDING THEIR CERTIFICATE NUMBERS, AND THAT SUCH INDIVIDUALS POSSESS A VALID CERTIFICATE OF COMPETENCE AS A PYROTECHNICIAN.

(b) The date and time of day at which the display is to be held.

(c) The exact location planned for the display.

(d) [The age, experience and physical characteristics of the persons who are to do the actual discharging of the fireworks.

(e)] The number and kind of fireworks to be discharged.

[(f)] (E) The manner and place of storage of such fireworks prior to the display.

[(g)] (F) A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained and the location of all nearby trees, telegraph or telephone lines or other overhead obstructions.

[(h)] (G) Such other information as the permit authority may deem necessary to protect persons or property.

3. Applications for permits. All applications for permits for the [public] display of fireworks shall be made at least five days in advance of the date of the display and the permit shall contain provisions that the actual point at which the fireworks are to be fired [shall be at least two hundred feet from the nearest permanent building, public highway or railroad or other means of travel and at least fifty feet from the nearest above ground telephone or telegraph line, tree or other overhead obstruction, that the audience at such display shall be restrained behind lines at least one hundred and fifty feet from the point at which the fireworks are discharged and only persons in active charge of the display shall be allowed inside these lines, that all fireworks that fire a projectile shall be so set up that the projectile will go into the air as nearby as possible in a vertical direction, unless such fireworks are to be fired from the shore of a lake or other large body of water, when they may be directed in such manner that the falling residue from the deflagration will fall into such lake or body of water, that any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining, that no fireworks display shall be

held during any wind storm in which the wind reaches a velocity of more than thirty miles per hour,] BE IN ACCORDANCE WITH THE RULES PROMULGATED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION FOUR HUNDRED SIXTY-TWO OF THE LABOR LAW AND that all the persons in actual charge of firing the fireworks shall be over the age of eighteen years, competent and physically fit for the task, that there shall be at least two such operators constantly on duty during the discharge and that at least two [sodaacid or other] approved type fire extinguishers [of at least two and one-half gallons capacity each] shall be kept at as widely separated points as possible within the actual area of the display. The legislative body of a state park, county park, city, village or town may provide for approval of such permit by the head of the police or fire department or both where there are such departments. No permit granted and issued hereunder shall be transferable. After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful solely therefor.

3-a. Notwithstanding the provisions of subdivision three of this section, no permit may be issued to conduct a [public] display of fireworks upon any property where the boundary line of such property is less than five hundred yards from the boundary line of any property which is owned, leased or operated by any breeder as defined in subdivision four of section [two hundred forty-four] TWO HUNDRED FIFTY-ONE of the racing, pari-mutuel wagering and breeding law.

4. Bonds. Before granting and issuing a permit for a [public] display of fireworks as herein provided, the permit authority shall require an adequate bond from the applicant therefor, unless it is a state park, county park, city, village or town, [or from the person to whom a contract for such display shall be awarded,] in a sum to be fixed by the permit authority, which, however, shall not be less than [five thousand] ONE MILLION dollars, conditioned for the payment of all damages, which may be caused to a person or persons or to property, by reason of the display so permitted and arising from any acts of the permittee, his agents, employees, contractors or subcontractors. Such bond shall run to the state park, county park, city, village or town in which the permit is granted and issued and shall be for the use and benefit of any person or persons or any owner or owners of any property so injured or damaged, and such person or persons or such owner or owners are hereby authorized to maintain an action thereon, which right of action also shall accrue to the heirs, executors, administrators, successors or assigns of such person or persons or such owner or owners. The permit authority may accept, in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to the terms and conditions upon which such bond is predicated and for the purposes [herein] provided IN THIS SECTION.

S 22. This act shall take effect immediately; provided that:

1. section eight of this act shall take effect on the thirtieth day after it shall have become a law, and sections eighteen and twenty-one of this act shall take effect on the one hundred eightieth day after it shall have become a law;

2. all licenses and certificates issued pursuant to article 16 of the labor law and article 28-D of the general business law prior to the effective date of this act shall remain in full force and effect until such licenses and certificates expire; and

3. sections fifteen and twenty of this act shall apply to offenses committed on or after the effective date of such sections.

PART DD

Section 1. Section 484 of the general business law is amended by adding a new subdivision 4 to read as follows:

4. (A) ANY PERSON WHO OPERATES A CRANE WITHOUT A CERTIFICATE OF COMPETENCE ISSUED BY THE COMMISSIONER OF LABOR AS REQUIRED BY SECTION FOUR HUNDRED EIGHTY-TWO OF THIS ARTICLE SHALL BE DEEMED TO HAVE VIOLATED THIS ARTICLE. THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY UPON SUCH PERSON OF NO MORE THAN ONE THOUSAND DOLLARS FOR THE INITIAL VIOLATION, NO MORE THAN TWO THOUSAND DOLLARS FOR THE SECOND VIOLATION, AND NO MORE THAN THREE THOUSAND DOLLARS FOR A THIRD OR SUBSEQUENT VIOLATION.

(B) ANY EMPLOYER, CONTRACTOR OR AGENT THEREOF WHO WILLFULLY PERMITS A PERSON TO OPERATE A CRANE WITHOUT A CERTIFICATE OF COMPETENCE ISSUED BY THE COMMISSIONER OF LABOR AS REQUIRED BY SECTION FOUR HUNDRED EIGHTY-TWO OF THIS ARTICLE SHALL BE DEEMED TO HAVE VIOLATED THIS ARTICLE. THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY UPON SUCH EMPLOYER, CONTRACTOR, OR AGENT OF NO MORE THAN FIVE THOUSAND DOLLARS FOR THE INITIAL VIOLATION, AND NO MORE THAN TEN THOUSAND DOLLARS FOR A SECOND OR SUBSEQUENT VIOLATION.

(C) WHEN TWO FINAL DETERMINATIONS HAVE BEEN RENDERED UNDER THIS SECTION AGAINST A PERSON WHO OPERATES A CRANE IN VIOLATION OF THIS ARTICLE, SUCH PERSON SHALL BE INELIGIBLE TO APPLY FOR A CERTIFICATE OF COMPETENCE FROM THE COMMISSIONER OF LABOR FOR A PERIOD OF TWO YEARS FROM THE DATE OF THE SECOND FINAL DETERMINATION.

S 2. This act shall take effect immediately and shall apply to violations occurring on and after such effective date.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through DD of this act shall be as specifically set forth in the last section of such Parts.