

4029

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. STEWART-COUSINS, DILAN, C. JOHNSON, MONTGOMERY,  
OPPENHEIMER, SEWARD, THOMPSON -- read twice and ordered printed, and  
when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, the tax law and the parks, recre-  
ation and historic preservation law, in relation to establishing the  
New York state historic preservation fund

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

1 Section 1. Legislative findings and intent. The legislature finds and  
2 declares that the restoration, preservation and adaptive reuse of  
3 historic properties in New York state is an essential element to help  
4 revitalize and bring about reinvestment in older downtown and business  
5 districts throughout the state. The preservation and restoration of New  
6 York state's vast historical and architecturally significant buildings  
7 can and must continue to be used as building blocks for community growth  
8 and prosperity.

9 Therefore, the intent of this act is to create the New York state  
10 historic preservation fund, which shall be a source of money used exclu-  
11 sively for the preservation and restoration of significant municipal and  
12 commercial architecture and historic buildings throughout New York  
13 state.

14 S 2. The state finance law is amended by adding a new section 99-q to  
15 read as follows:

16 S 99-Q. NEW YORK STATE HISTORIC PRESERVATION FUND. 1. THERE IS HEREBY  
17 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE  
18 COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE  
19 "NEW YORK STATE HISTORIC PRESERVATION FUND".

20 2. SUCH FUND SHALL CONSIST OF ALL MONEYS TRANSFERRED TO SUCH FUND  
21 PURSUANT TO LAW AND ALL MONEYS REQUIRED BY THE PROVISIONS OF ANY OTHER  
22 LAW TO BE PAID INTO OR CREDITED TO SUCH FUND.

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

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1 3. MONEYS OF SUCH FUND SHALL BE MADE AVAILABLE TO THE COMMISSIONER OF  
2 PARKS, RECREATION AND HISTORIC PRESERVATION AND SHALL BE USED FOR GRANTS  
3 TO MUNICIPALITIES AND NOT-FOR-PROFIT CORPORATIONS TO PRESERVE AND  
4 RESTORE SIGNIFICANT MUNICIPAL AND COMMERCIAL ARCHITECTURE AND HISTORIC  
5 BUILDINGS SITUATED IN LOCALITIES THROUGHOUT THE STATE.

6 4. THE MONEYS OF THE FUND SHALL BE PAID ON THE AUDIT AND WARRANT OF  
7 THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF  
8 PARKS, RECREATION AND HISTORIC PRESERVATION OR HIS DULY DESIGNATED  
9 REPRESENTATIVE AND IT SHALL BE THE DUTY OF THE COMMISSIONER OF PARKS,  
10 RECREATION AND HISTORIC PRESERVATION TO ENSURE THAT SUCH MONEYS ARE  
11 SPENT ONLY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

12 S 3. The tax law is amended by adding a new section 623 to read as  
13 follows:

14 S 623. GIFT FOR NEW YORK STATE HISTORIC PRESERVATION FUND. EFFECTIVE  
15 FOR ANY TAX YEAR COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND  
16 ELEVEN, AN INDIVIDUAL RESIDING IN NEW YORK STATE MAY ELECT TO CONTRIBUTE  
17 TO THE NEW YORK STATE HISTORIC PRESERVATION FUND ESTABLISHED BY SECTION  
18 NINETY-NINE-Q OF THE STATE FINANCE LAW. SUCH CONTRIBUTION SHALL BE IN  
19 ANY WHOLE DOLLAR AMOUNT AND SHALL NOT REDUCE THE AMOUNT OF STATE TAX  
20 OWED BY SUCH INDIVIDUAL. THE DEPARTMENT SHALL INCLUDE SPACE ON THE  
21 PERSONAL INCOME TAX RETURN SECTION TO BE COMPLETED BY NEW YORK STATE  
22 TAXPAYERS TO ENABLE SUCH TAXPAYERS TO MAKE SUCH CONTRIBUTION EITHER BY  
23 HAVING A REFUND OR PORTION THEREOF CREDITED TO SUCH FUND OR BY INDICAT-  
24 ING THAT AN OVERPAYMENT OF TAXES OWED IS TO BE CREDITED TO SUCH FUND.  
25 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL REVENUES PURSUANT TO  
26 THIS SECTION SHALL BE CREDITED TO THE NEW YORK STATE HISTORIC PRESERVA-  
27 TION FUND AND USED ONLY FOR THOSE PURPOSES ENUMERATED IN SECTION NINE-  
28 TY-NINE-Q OF THE STATE FINANCE LAW.

29 S 4. The parks, recreation and historic preservation law is amended by  
30 adding a new section 14.11 to read as follows:

31 S 14.11 HISTORIC PRESERVATION PROJECTS. 1. HISTORIC PRESERVATION  
32 PROJECTS MAY BE UNDERTAKEN BY THE OFFICE PURSUANT TO THE PROVISIONS OF  
33 THIS ARTICLE AND OTHER APPLICABLE PROVISIONS OF LAW PURSUANT TO THE  
34 APPROVAL OF THE COMMISSIONER.

35 2. ALL HISTORIC PRESERVATION PROJECTS SHALL BE UNDERTAKEN IN THE  
36 STATE. EXCEPT FOR PROJECTS UNDERTAKEN BY THE STATE, THE TOTAL AMOUNT OF  
37 THE STATE ASSISTANCE PAYMENTS TOWARD THE COST OF ANY SUCH PROJECT SHALL  
38 NOT EXCEED FIFTY PERCENT OF THE COST. FOR THE PURPOSE OF DETERMINING THE  
39 AMOUNT OF THE STATE ASSISTANCE PAYMENTS, THE COST OF THE PROJECT SHALL  
40 NOT BE MORE THAN THE AMOUNT SET FORTH IN THE APPLICATION FOR STATE  
41 ASSISTANCE PAYMENTS APPROVED BY THE COMMISSIONER.

42 3. THE COMMISSIONER AND A MUNICIPALITY MAY ENTER INTO A CONTRACT FOR  
43 THE UNDERTAKING BY THE MUNICIPALITY OF AN HISTORIC PRESERVATION PROJECT.  
44 SUCH HISTORIC PRESERVATION PROJECTS SHALL BE RECOMMENDED TO THE COMMIS-  
45 SIONER BY THE GOVERNING BODY OF THE MUNICIPALITY AND, WHEN APPROVED BY  
46 THE COMMISSIONER, MAY BE UNDERTAKEN BY THE MUNICIPALITY PURSUANT TO THIS  
47 SECTION AND ANY OTHER APPLICABLE PROVISION OF LAW.

48 4. THE COMMISSIONER AND A NOT-FOR-PROFIT CORPORATION MAY ENTER INTO A  
49 CONTRACT FOR THE UNDERTAKING BY THE NOT-FOR-PROFIT CORPORATION OF AN  
50 HISTORIC PRESERVATION PROJECT. SUCH AN HISTORIC PRESERVATION PROJECT  
51 SHALL BE RECOMMENDED TO THE COMMISSIONER BY THE GOVERNING BODY OF A  
52 NOT-FOR-PROFIT CORPORATION WHICH DEMONSTRATES TO THE SATISFACTION OF THE  
53 COMMISSIONER THAT IT IS CAPABLE OF OPERATING AND MAINTAINING SUCH PROP-  
54 erty FOR THE BENEFIT OF THE PUBLIC. UPON APPROVAL BY THE COMMISSIONER,  
55 SUCH PROJECT MAY BE UNDERTAKEN PURSUANT TO THE PROVISIONS OF THIS  
56 SECTION AND ANY OTHER APPLICABLE PROVISION OF LAW.

1 5. A MUNICIPALITY WHICH ACQUIRES, DEVELOPS, IMPROVES, RESTORES OR  
2 REHABILITATES PROPERTY WITH FUNDS MADE AVAILABLE PURSUANT TO THIS  
3 SECTION MAY ESTABLISH REASONABLE RULES AND REGULATIONS BY LOCAL LAW OR  
4 OTHERWISE TO ASSURE THE PROPER ADMINISTRATION AND DEVELOPMENT THEREOF,  
5 PROVIDED THAT NO SUCH RULE OR REGULATION MAY RESTRICT THE USE OF SUCH  
6 LANDS OR FACILITIES BY NON-RESIDENTS OF THE MUNICIPALITY.

7 6. THE COMMISSIONER SHALL IMPOSE SUCH CONTRACTUAL REQUIREMENTS AND  
8 CONDITIONS UPON ANY MUNICIPALITY AND ANY NOT-FOR-PROFIT CORPORATION  
9 WHICH RECEIVES STATE ASSISTANCE PAYMENTS PURSUANT TO THIS SECTION AS MAY  
10 BE NECESSARY AND APPROPRIATE TO ENSURE THAT A PUBLIC BENEFIT SHALL  
11 ACCRUE FROM THE USE OF PUBLIC FUNDS BY SUCH MUNICIPALITY OR NOT-FOR-PRO-  
12 FIT CORPORATION. SUCH CONDITIONS SHALL INCLUDE LIMITATIONS ON THE RIGHT  
13 OF THE MUNICIPALITY OR NOT-FOR-PROFIT CORPORATION TO DEMOLISH OR CONVEY  
14 SUCH PROPERTY, PROVISIONS FOR PUBLIC ACCESS OR USE WHERE APPROPRIATE,  
15 THE GRANTING OF FACADE EASEMENTS TO THE STATE, A REQUIREMENT THAT ALL  
16 PLANS FOR RESTORATION, REHABILITATION, IMPROVEMENT, DEMOLITION OR OTHER  
17 PHYSICAL CHANGE MUST BE SUBJECT TO THE COMMISSIONER'S APPROVAL, AND SUCH  
18 OTHER CONDITIONS WHICH SHALL ASSURE THE PRESERVATION AND PROTECTION OF  
19 THE PROJECT.

20 7. THE COMMISSIONER SHALL ADOPT, PRIOR TO THE ACCEPTANCE OF APPLICA-  
21 TIONS FOR HISTORIC PRESERVATION PROJECTS, RULES AND REGULATIONS WHICH  
22 SHALL INCLUDE ELIGIBILITY REQUIREMENTS, APPLICATION PROCEDURES, OFFICE  
23 RANKING AND REVIEW PROCESSES, PROJECT APPROVAL GUIDELINES AND CRITERIA,  
24 AND FUNDING DISTRIBUTION NECESSARY FOR ALL STATE ASSISTANCE PAYMENT  
25 PROGRAMS ESTABLISHED PURSUANT TO THIS SECTION.

26 S 5. This act shall take effect January 1, 2010 except that section  
27 three of this act shall take effect on January 1, 2011, or such time  
28 that the requirements therein can be implemented prior to the initial  
29 printing of state personal income tax return forms, whichever occurs  
30 first; provided that the office of the state comptroller shall notify  
31 the legislative bill drafting commission upon the occurrence of the  
32 enactment of the legislation provided for in section three of this act  
33 in order that the commission may maintain an accurate and timely effec-  
34 tive data base of the official text of the laws of the state of New York  
35 in furtherance of effectuating the provisions of section 44 of the  
36 legislative law and section 70-b of the public officers law.