

6068

2009-2010 Regular Sessions

I N S E N A T E

June 26, 2009

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the insurance law, in relation to municipal cooperative health benefit plans, a study of community rating and the provision of claims experience to a municipality (Part A); to amend the general municipal law and the highway law, in relation to mutual aid (Part B); to amend the public health law, in relation to the composition of county and part-county boards of health (Part C); to amend the general municipal law, in relation to purchasing requirements (Part D); to amend the public authorities law and the local finance law, in relation to authorizing certain bonds to be issued or purchased by the municipal bond bank agency (Part E); and to amend the civil practice law and rules, in relation to treating public and private defendants equally when considering the impact of collateral source payments in tort claims for personal injury, property damage or wrongful death; to amend the general obligations law, in relation to protecting parties to the settlement of a tort claim from certain unwarranted lien, reimbursement and subrogation claims; and to repeal certain provisions of the civil practice law and rules relating to collateral source payments (Part F)

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

1 Section 1. Each component of this act is wholly contained within a
2 Part identified as Parts A through F. The effective date for each
3 particular provision contained within such Part is set forth in the last
4 section of such Part. Any provision in any section contained within a
5 Part, including the effective date of the Part, which makes reference to
6 a section "of this act", when used in connection with that particular
7 component, shall be deemed to mean and refer to the corresponding
8 section of the Part in which it is found. Section three of this act sets
9 forth the general effective date of this act.

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

LBD12121-02-9

1

PART A

2 Section 1. Subsection (d) of section 3231 of the insurance law, as
3 added by chapter 501 of the laws of 1992, is amended to read as follows:

4 (d) (1) Notwithstanding any other provision of this chapter to the
5 contrary, no policy form subject to this section shall be issued or
6 delivered, nor any insurance contract entered into, unless and until the
7 insurer has filed with the superintendent a schedule of premiums, not to
8 exceed twelve months in duration, to be paid under the policy forms and
9 obtained the superintendent's approval thereof. The superintendent may
10 refuse such approval if he or she finds that such premiums are exces-
11 sive, inadequate, or unfairly discriminatory. The superintendent may
12 consider the financial condition of such insurer in approving or disap-
13 proving any premium. In determining whether to approve the schedule of
14 premiums filed, the superintendent shall, subject to the provisions of
15 section three thousand two hundred thirty-three of this article, consid-
16 er the prior experience of the insurer's community pool and the insur-
17 er's projections relating to claim costs, utilization and administrative
18 expenses and shall not adjust the insurer's rates based upon the rates
19 approved for other insurers.

20 (2) AN INSURER SHALL PROVIDE SPECIFIC CLAIMS EXPERIENCE TO A MUNICIPAL
21 CORPORATION, AS DEFINED IN SUBSECTION (F) OF SECTION FOUR THOUSAND SEVEN
22 HUNDRED TWO OF THIS CHAPTER, COVERED BY THE INSURER UNDER A COMMUNITY
23 RATED POLICY WHEN THE MUNICIPAL CORPORATION REQUESTS ITS CLAIMS EXPERI-
24 ENCE FOR PURPOSES OF FORMING OR JOINING A MUNICIPAL COOPERATIVE HEALTH
25 BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER.
26 NOTWITHSTANDING THE FORGOING PROVISIONS, NO INSURER SHALL BE REQUIRED TO
27 PROVIDE MORE THAN THREE YEARS' CLAIMS EXPERIENCE TO A MUNICIPAL CORPO-
28 RATION MAKING THIS REQUEST.

29 S 2. Subsection (d) of section 4317 of the insurance law, as added by
30 chapter 501 of the laws of 1992, is amended to read as follows:

31 (d) (1) This section shall also apply to contracts issued to a group
32 defined in subsection (c) of section four thousand two hundred thirty-
33 five OF THIS CHAPTER, including but not limited to an association or
34 trust of employers, if the group includes one or more member employers
35 or other member groups which have fifty or fewer employees or members
36 exclusive of spouses and dependents.

37 (2) A CORPORATION SHALL PROVIDE SPECIFIC CLAIMS EXPERIENCE TO A MUNIC-
38 IPAL CORPORATION, AS DEFINED IN SUBSECTION (F) OF SECTION FOUR THOUSAND
39 SEVEN HUNDRED TWO OF THIS CHAPTER, COVERED BY THE CORPORATION UNDER A
40 COMMUNITY RATED CONTRACT WHEN THE MUNICIPAL CORPORATION REQUESTS ITS
41 CLAIMS EXPERIENCE FOR PURPOSES OF FORMING OR JOINING A MUNICIPAL COOPER-
42 ATIVE HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF
43 THIS CHAPTER. NOTWITHSTANDING THE FOREGOING PROVISIONS, NO CORPORATION
44 SHALL BE REQUIRED TO PROVIDE MORE THAN THREE YEARS' CLAIMS EXPERIENCE TO
45 A MUNICIPAL CORPORATION MAKING THIS REQUEST.

46 S 3. Paragraph 2 of subsection (a) of section 4704 of the insurance
47 law, as added by chapter 689 of the laws of 1994, is amended to read as
48 follows:

49 (2) except for any plan that provided medical, surgical and hospital
50 services on or before January first, nineteen hundred ninety-three
51 pursuant to a municipal cooperation agreement, the number of municipal
52 corporations participating in the municipal cooperative health benefit
53 plan shall be at least [five] THREE;

54 S 4. The superintendent of insurance shall order a study of the impact
55 to the community rated health insurance market of allowing a public

entity, as defined in paragraph 51 of subsection (a) of section 107 of the insurance law, with fifty or fewer employees to join with public entities with more than fifty employees to purchase health insurance coverage under experience rated policies. The study shall be performed by a member of the American academy of actuaries. The study shall be completed and a report submitted by September 1, 2010 to the governor, the superintendent of insurance, the temporary president of the senate and the speaker of the assembly.

S 5. The superintendent of insurance shall conduct a study of the impact of the reserve requirements established in section 4706 of the insurance law on municipal cooperative health benefit plans and provide recommendation for changes to such requirements. The study shall be completed and a report submitted to the governor, the temporary president of the senate and the speaker of the assembly by October 1, 2009.

S 6. This act shall take effect immediately.

PART B

Section 1. Section 99-r of the general municipal law, as amended by chapter 165 of the laws of 2008, is amended to read as follows:

S 99-r. Contracts for services. Notwithstanding any other provisions of law to the contrary, the governing board of any municipal corporation may enter into agreements and/or contracts with any state agency including any department, board, bureau, commission, division, office, council, committee, or officer of the state, whether permanent or temporary, or a public benefit corporation or public authority, or a soil and water conservation district, and any unit of the state university of New York, pursuant to and consistent with sections three hundred fifty-five and sixty-three hundred one of the education law within or without such municipal corporation to provide OR RECEIVE fuel, equipment, maintenance and repair, supplies, water supply, street sweeping or maintenance, sidewalk maintenance, RIGHT-OF-WAY MAINTENANCE, STORM WATER AND OTHER drainage, sewage disposal, LANDSCAPING, MOWING, or any other services of government. Such state agency, soil and water conservation district, or unit of the state university of New York, within the limits of any specific statutory appropriation authorized and made available therefor by the legislature or by the governing body responsible for the operation of such state agency, soil and water conservation district, or unit of the state university of New York may contract with any municipal corporation for such services as herein provided. Any such contract may be entered into by direct negotiations and shall not be subject to the provisions of section one hundred three of this chapter.

S 2. Section 10 of the highway law is amended by adding a new subdivision 46 to read as follows:

46. HAVE THE AUTHORITY TO ENTER INTO AGREEMENTS AND/OR CONTRACTS TO PROVIDE OR RECEIVE SERVICES PURSUANT TO SECTION NINETY-NINE-R OF THE GENERAL MUNICIPAL LAW UPON SUCH TERMS AND CONDITIONS AS DEEMED APPROPRIATE BY THE COMMISSIONER OR COMMISSIONER'S DESIGNEE.

S 3. Section 12 of the highway law, as amended by chapter 1110 of the laws of 1971, subdivision 2 as amended by chapter 249 of the laws of 1972, subdivision 2-a as added by chapter 568 of the laws of 1986 and subdivision 7 as added by chapter 691 of the laws of 1971, is amended to read as follows:

S 12. Commissioner [of transportation] to provide for maintenance, repair, and for control of snow and ice; roads and driveways on state lands. 1. The maintenance and repair of improved state highways in towns

1 and incorporated villages, exclusive, however, of the cost of maintain-
2 ing and repairing bridges having a span in excess of twenty feet shall
3 be under the direct supervision and control of the commissioner [of
4 transportation] and he OR SHE shall be responsible therefor. The cost of
5 such maintenance and repair shall be borne wholly by the state and be
6 paid from moneys appropriated therefor by the legislature. Such mainte-
7 nance and repair may be done in the discretion of the commissioner
8 either directly by the department [of transportation] or by contract
9 awarded to the lowest responsible bidder at a public letting after due
10 advertisement, and under such rules and regulations as the commissioner
11 [of transportation] may prescribe. The commissioner [of transportation]
12 shall also have the power to adopt such system as may seem expedient so
13 that each section of such highways shall be effectively and economically
14 preserved, maintained and repaired.

15 2. The maintenance of state highways shall include the control of snow
16 and ice on such highways or any parts thereof, as the commissioner [of
17 transportation] may deem to be necessary to provide reasonable passage
18 and movement of vehicles over such highways. The commissioner [of trans-
19 portation] is authorized also to erect snow fences at suitable
20 locations. The work of such control of snow and ice may be done by any
21 municipality which for the purposes of this section shall include only a
22 county, city, town or village. The governing board or body of any such
23 municipality and the commissioner [of transportation] are hereby author-
24 ized to enter into an agreement for the performance of the work of such
25 control of snow and ice upon such terms, rules and regulations as may be
26 deemed by the commissioner [of transportation] to be for the best inter-
27 est of the public. Such agreement may provide for periodic payments
28 based upon a percentage of the estimated total cost. Any agreement
29 authorized by this subdivision shall be for a term of [three] UP TO FIVE
30 years and at the expiration of [each] THE year PRECEDING THE LAST YEAR
31 of the term specified in the agreement, as such term may be extended as
32 herein provided, the municipality shall notify the commissioner either
33 (a) that it requests, with the approval of the commissioner, that the
34 term of the agreement be extended for [one year] A SPECIFIED TERM OF UP
35 TO FIVE YEARS or (b) it intends not to extend the agreement and such
36 agreement shall expire at the end of the term. If the municipality fails
37 to notify the commissioner as herein provided, it shall be deemed that
38 the municipality intends not to extend the agreement. SUCH AGREEMENT
39 MAY BE TERMINATED DURING THE SPECIFIED TERM PROVIDED THE MUNICIPALITY
40 SHALL NOTIFY THE COMMISSIONER EIGHTEEN MONTHS PRIOR TO SUCH TERMINATION.
41 If any such agreement expires, a new agreement between the commissioner
42 and a municipality may be entered into for a term of [three] UP TO FIVE
43 years, with extended term or terms upon notification as above provided.
44 Whenever the commissioner shall deem the work of control of snow and ice
45 by any municipality to be inadequate or unsatisfactory according to the
46 terms of any such agreement, he OR SHE may, by official order to be
47 filed in [his office] THE DEPARTMENT, and by filing a certified copy
48 thereof in the office of the department of state, cancel said agreement,
49 and the payments thereunder provided by the state shall cease; whereupon
50 the commissioner may carry out the work of control of snow and ice. The
51 official order provided in this subdivision shall become effective at
52 the expiration of five days after the commissioner shall mail a certi-
53 fied copy thereof to the clerk or other official who performs related
54 duties in such municipality. The governing board or body of any such
55 municipality is authorized to appropriate such sum as it deems necessary
56 to enable such municipality to perform the terms of such agreement. The

1 work of such control of snow and ice may be done by any of the methods
2 provided in subdivision one of this section for the work of maintenance
3 and repair, or by a combination of such methods. Any county is hereby
4 authorized to enter into a contract with another municipality located
5 within the same county for the performance of the work of such control
6 of snow and ice as a subcontractor under any agreement with the commis-
7 sioner [of transportation] as such agreement is hereinbefore provided.
8 Moneys received by a county under the terms of any agreement authorized
9 by this subdivision shall be credited to the fund from which moneys were
10 appropriated to enable the county to perform the terms of such agree-
11 ment. Moneys so received by a town shall be credited to the highway
12 fund. Moneys so received by a city or village shall be credited to the
13 general fund.

14 2-a. (a) Except as provided hereafter the state shall indemnify and
15 hold harmless such municipalities for any and all liability for damages
16 for personal injury, injury to property or wrongful death for losses
17 arising from or occasioned by the manner of performance of the functions
18 under any agreement with a municipality for the control of snow and ice
19 pursuant to this section.

20 (b) In no event shall the state be obligated to defend or indemnify
21 such municipality, in any action, proceeding, claim or demand arising
22 out of the actual operation of an insured vehicle or vehicle subject to
23 self-insurance while engaged in the operation of snow and ice control
24 functions under such agreement.

25 (c) The municipality shall be entitled to representation by the attor-
26 ney general in any claim described in paragraph (a) of this subdivision,
27 provided, however, that the municipality shall be entitled to itself
28 defend any such action, proceeding, claim or demand whenever the attor-
29 ney general determines, based upon his investigation and review of the
30 facts and circumstances of the case that representation by the attorney
31 general would be inappropriate, or whenever a court of competent juris-
32 diction determines that a conflict of interest exists and that the muni-
33 cipality is entitled to be separately represented. Whenever the muni-
34 cipality is entitled to defend the action itself, the state shall
35 reimburse the municipality for any and all costs and expenses, includ-
36 ing, but not limited to, counsel fees and disbursements.

37 (d) The state shall indemnify and save harmless such municipality in
38 the amount of any judgment obtained against such municipality in any
39 state or federal court on any claim described in paragraph (a) of this
40 subdivision, or in the amount of any settlement of such claim, or shall
41 pay such judgment or settlement; provided, however, that the act or
42 omission from which such judgment or settlement arose occurred while the
43 municipality was acting within the scope of its functions for control of
44 snow and ice; provided, further, that no stipulation of settlement of
45 any such action, proceeding, claim or demand shall be made or executed
46 without approval of the attorney general and of the commissioner [of
47 transportation] or his designee. Payment of any claim made pursuant to
48 settlement shall not exceed the sum of fifty thousand dollars. Nothing
49 herein shall authorize the state to indemnify or save harmless with
50 respect to punitive or exemplary damages.

51 (e) The duty to defend or indemnify and save harmless prescribed by
52 this subdivision shall be conditioned upon (i) delivery to the attorney
53 general or an assistant attorney general at the office of the department
54 of law located in Albany or New York city and by delivery to the commis-
55 sioner [of transportation] or his designee a copy of any claim, summons,
56 complaint, process, notice, demand or other pleading within ten days

1 after such municipality is served with such document and (ii) the full
2 cooperation of the municipality in the defense of such action, proceed-
3 ing, claim or demand and in the defense of any action, proceeding, claim
4 or demand against the state based upon the same act or omission, and in
5 the prosecution of any appeal.

6 (f) The benefits of this subdivision shall inure only to such munici-
7 palities and shall not enlarge or diminish the rights of any other party
8 nor shall any provision of this subdivision be construed to effect,
9 alter or repeal any provision of the workers' compensation law.

10 (g) This subdivision shall not in any way affect the obligation of any
11 claimant to give notice to the state under section ten of the court of
12 claims act or any other provision of law.

13 (h) The provisions of this subdivision shall not be construed to
14 impair, alter, limit or modify the rights and obligations of any insurer
15 under any insurance agreement.

16 (i) Except as otherwise specifically provided in this subdivision, the
17 provisions of this subdivision shall not be construed in any way to
18 impair, alter, limit, modify, abrogate or restrict any immunity avail-
19 able to or conferred upon any unit, entity, officer or employee of the
20 state or municipality or any other level of government, or any right to
21 defense and indemnification provided for any governmental officer or
22 employee by, in accordance with, or by reason of, any other provision of
23 state or federal statutory or common law.

24 3. The commissioner [of transportation] shall have the power to
25 purchase (a) materials for such maintenance and repair, except where
26 such work is done by contract, and to contract for the delivery thereof
27 at convenient intervals along such highways, and (b) equipment and
28 appliances that he may deem necessary to carry out the provisions of
29 this section. Any municipality, acting by and through its authorized
30 official, is hereby empowered to rent its machinery, tools, equipment,
31 and storage space, to the state, acting by and through the commissioner
32 [of transportation], for the purpose of such control of snow and ice
33 upon such terms and at such rate as may be agreed between the munici-
34 pality and the commissioner [of transportation]. Notwithstanding the
35 provisions of any general, special or local law or of any charter, the
36 governing board or body of any such municipality is hereby authorized to
37 sell such machinery, tools and equipment to the state, acting by and
38 through the commissioner [of transportation], for the purposes of this
39 section and without competitive bidding or other limitation or
40 restriction provided in any general, special or local law or of any
41 charter, and the commissioner [of transportation], may, upon approval by
42 the state comptroller and the state commissioner of general services,
43 purchase such machinery, tools and equipment from any such municipality
44 as herein provided.

45 4. Whenever funds therefor are made available, the commissioner [of
46 transportation] shall have power to acquire for the state, by purchase,
47 or by appropriation through the procedure described in section thirty of
48 this chapter, property for the purpose of storing, maintaining or proc-
49 essing construction and maintenance supplies, material or equipment and
50 for the purpose of providing, erecting and maintaining offices for
51 department personnel and structures for storing, maintaining or process-
52 ing construction and maintenance materials or equipment.

53 5. Whenever a state highway has been constructed at a greater width
54 than that provided in the original plans, upon petition of a village, as
55 provided in sections forty-six and forty-seven OF THIS CHAPTER, or upon
56 petition of a town or county, as provided in sections forty-eight,

1 forty-nine, or fifty-nine OF THIS CHAPTER, or whenever such highway has
2 been widened by a town or county under a permit granted as provided in,
3 or under conditions and regulations prescribed pursuant to section
4 fifty-two OF THIS CHAPTER, the additional width of pavement shall be
5 deemed to be a part of the highway and shall be maintained by the
6 commissioner [of transportation] as provided herein, but in no case
7 where any such highway has been widened as provided above, shall the
8 state be responsible for the maintenance of any curb or of any paved
9 gutter or paved shoulder, provided, however, that on any highway main-
10 tained by the state the commissioner shall have authority to clean any
11 pavement or paved gutter or repair any unpaved shoulder or unpaved
12 gutter outside of the pavement maintained by the state, where necessary
13 for the protection of such pavement.

14 6. Whenever the head of any state department having jurisdiction or
15 control over lands owned and occupied by the state, requests the commis-
16 sioner [of transportation] to maintain and to repair any road and drive-
17 way which is located on, over and across such lands, the commissioner
18 [of transportation] is, notwithstanding the provisions of any general,
19 special or local law, authorized to grant such request by his official
20 order therefor. Such official order shall contain a general description
21 of any such road and driveway. A certified copy of such official order
22 shall be filed by the commissioner [of transportation] in the office of
23 (a) the state department having jurisdiction or control over such lands,
24 and (b) the department of audit and control. Thereupon any such road
25 and driveway shall be maintained and repaired under the direct super-
26 vision and control of the commissioner [of transportation] in the same
27 manner as is provided in this section for the maintenance and repair of
28 improved state highways in towns and in incorporated villages.

29 7. Whenever the head of any state department, agency, institution or
30 public benefit corporation having jurisdiction or control over the lands
31 owned and occupied by the state or such department, agency, institution
32 or public benefit corporation requests the commissioner to construct,
33 reconstruct, and/or maintain any loop or peripheral roadway which is or
34 is to be located on, around, over, or across such lands, notwithstanding
35 the provisions of any general, special or local law, the commissioner is
36 authorized to grant such request and undertake such construction, recon-
37 struction and/or maintenance. Before undertaking the work of
38 construction, reconstruction and/or maintenance of such roadways, the
39 commissioner and the head of the state department, agency, institution
40 or public benefit corporation shall enter into a written agreement,
41 subject to the approval of the director of the budget, providing the
42 funds therefor, or reimbursement by such state department, agency,
43 institution or public benefit corporation of the funds therefor, includ-
44 ing all costs incurred by the department in connection with such
45 construction, reconstruction and/or maintenance. Where such loop or
46 peripheral roadway is to be constructed, reconstructed and/or maintained
47 on lands occupied by either the state university of New York or the
48 state university construction fund, both the state university of New
49 York and the state university construction fund shall be parties to such
50 agreement. Such roadway shall be constructed, or reconstructed, to
51 mutually agreeable standards, in the same manner as state highways are
52 constructed or reconstructed pursuant to this chapter. The maintenance
53 of such roadway shall be in the same manner as provided for state high-
54 ways in this chapter. If such a maintenance agreement extends for a
55 period greater than one year, the funds shall be made available for, or
56 reimbursed, on an annual basis. The head of such state department, agen-

1 cy, institution or public benefit corporation may terminate such maintenance agreement upon six months written notice to the commissioner making provision for the department [of transportation] to be reimbursed for all costs incurred by such department up to such termination date. In connection with the maintenance of such a roadway the commissioner shall cause an official order to be issued therefor. Such official order shall contain a general description of such roadway. A certified copy of such official order shall be filed by the commissioner in the office of the head of the state department, agency, institution or public benefit corporation making such request for maintenance and with the department of audit and control.

12 S 4. This act shall take effect immediately.

13

PART C

14 Section 1. Section 351 of the public health law, subdivision 1 as amended by chapter 83 of the laws of 1975, is amended to read as follows:

17 S 351. County or part-county health commissioner, PUBLIC HEALTH DIRECTOR OR COUNTY HEALTH DIRECTOR; appointment; compensation. 1. The board of health of each county and part-county health district OR OTHER BODY HAVING THE POWERS AND DUTIES OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT or the county executive in those counties where the county charter provides that said commissioner is to be appointed by the county executive shall appoint a county health commissioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED UNDER THE STATE SANITARY CODE, PUBLIC HEALTH DIRECTOR; except, however,

26 (A) that the boards of health of not more than three county or part-county health districts OR OTHER BODIES HAVING THE POWERS AND DUTIES OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT may appoint the same person to serve as county health commissioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC HEALTH DIRECTOR for said health districts, if the total population of health districts is not in excess of one hundred fifty thousand according to the latest federal decennial census, provided the approval of the commissioner is obtained[.]; OR

35 [The] (B) THE board of health OR OTHER BODY HAVING THE POWERS AND DUTIES OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT of any county health district with a population of less than thirty-five thousand [population] according to the latest federal decennial census may appoint the same person employed by a contiguous county or part-county health district to serve as county health commissioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC HEALTH DIRECTOR without regard to the total population of both health districts, provided the approval of the commissioner is obtained.

44 [2.] THE COMMISSIONER SHALL PERIODICALLY REVIEW HIS OR HER DETERMINATION TO ENSURE SUCH EMPLOYMENT OF THE SAME COUNTY HEALTH DIRECTOR, DIRECTOR OF PUBLIC HEALTH OR COUNTY HEALTH COMMISSIONER CONTINUES TO SERVE THE INTEREST OF PUBLIC HEALTH AND MAY TERMINATE HIS OR HER APPROVAL AT HIS OR HER DISCRETION.

49 2. IF THE COMMISSIONER HAS APPROVED THE APPOINTMENT OF THE SAME PERSON TO SERVE AS THE COUNTY COMMISSIONER OF HEALTH OR PUBLIC HEALTH DIRECTOR OF MORE THAN ONE COUNTY OR PART-COUNTY HEALTH DISTRICT PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THEN DURING THE CONTINUATION OF SUCH APPROVAL THE COMMISSIONER MAY ALSO AUTHORIZE THE SAME MEMBERS TO BE

1 APPOINTED TO THE BOARD OF HEALTH OF EACH RESPECTIVE HEALTH DISTRICT,
2 NOTWITHSTANDING THEIR RESIDENCY IN THE OTHER COUNTY.

3 3. ANY BOARDS OF HEALTH OR OTHER BODIES HAVING THE POWERS AND DUTIES
4 OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT HAVING
5 THE SAME MEMBERS SHALL ANNUALLY SUBMIT SUCH INFORMATION AND REPORTS
6 REGARDING THE EFFECT OF SUCH EMPLOYMENT ON ADMINISTRATION OF THE RESPEC-
7 TIVE HEALTH DISTRICTS AND THE PROVISION OF PUBLIC HEALTH SERVICES AS THE
8 COMMISSIONER MAY REQUIRE. THE COMMISSIONER SHALL USE SUCH INFORMATION IN
9 DETERMINING WHETHER SUCH COMMON MEMBERSHIP CONTINUES TO SERVE THE INTER-
10 EST OF PUBLIC HEALTH.

11 4. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall
12 possess such qualifications for office as are prescribed in the sanitary
13 code.

14 [3.] 5. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall
15 serve for a term of six years and shall not be removed during the term
16 for which he OR SHE shall have been appointed, except upon written
17 charges after a hearing and upon notice.

18 [4.] 6. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall
19 receive such compensation as may be fixed by the board of supervisors
20 OR, IF THE COMMISSIONER'S APPROVAL HAS BEEN OBTAINED FOR THE EMPLOYMENT
21 OF THE SAME PERSON AS THE COUNTY HEALTH COMMISSIONER OR PUBLIC HEALTH
22 DIRECTOR PURSUANT TO SUBDIVISION ONE OF THIS SECTION, BY THE BOARDS OF
23 SUPERVISORS.

24 S 2. This act shall take effect immediately.

25 PART D

26 Section 1. Subdivision 1 of section 103 of the general municipal law,
27 as amended by chapter 741 of the laws of 2005, is amended to read as
28 follows:

29 1. Except as otherwise expressly provided by an act of the legislature
30 or by a local law adopted prior to September first, nineteen hundred
31 fifty-three, all contracts for public work involving an expenditure of
32 more than [twenty] THIRTY-FIVE thousand dollars and all purchase
33 contracts involving an expenditure of more than ten thousand dollars,
34 shall be awarded by the appropriate officer, board or agency of a poli-
35 tical subdivision or of any district therein including but not limited
36 to a soil conservation district, to the lowest responsible bidder
37 furnishing the required security after advertisement for sealed bids in
38 the manner provided by this section. In any case where a responsible
39 bidder's gross price is reducible by an allowance for the value of used
40 machinery, equipment, apparatus or tools to be traded in by a political
41 subdivision, the gross price shall be reduced by the amount of such
42 allowance, for the purpose of determining the low bid. In cases where
43 two or more responsible bidders furnishing the required security submit
44 identical bids as to price, such officer, board or agency may award the
45 contract to any of such bidders. Such officer, board or agency may, in
46 his or its discretion, reject all bids and readvertise for new bids in
47 the manner provided by this section. For purposes of this section,
48 "sealed bids", as that term applies to purchase contracts, shall include
49 bids submitted in an electronic format, provided that the governing
50 board of the political subdivision or district, by resolution, has
51 authorized the receipt of bids in such format. Submission in electronic
52 format may not, however, be required as the sole method for the
53 submission of bids. Bids submitted in an electronic format shall be
54 transmitted by bidders to the receiving device designated by the poli-

1 tical subdivision or district. Any method used to receive electronic
2 bids shall comply with article three of the state technology law, and
3 any rules and regulations promulgated and guidelines developed there-
4 under and, at a minimum, must (a) document the time and date of receipt
5 of each bid received electronically; (b) authenticate the identity of
6 the sender; (c) ensure the security of the information transmitted; and
7 (d) ensure the confidentiality of the bid until the time and date estab-
8 lished for the opening of bids. The timely submission of an electronic
9 bid in compliance with instructions provided for such submission in the
10 advertisement for bids and/or the specifications shall be the responsi-
11 bility solely of each bidder or prospective bidder. No political subdivi-
12 sion or district therein shall incur any liability from delays of or
13 interruptions in the receiving device designated for the submission and
14 receipt of electronic bids.

15 S 2. This act shall take effect immediately, provided, however that
16 the amendments to subdivision 1 of section 103 of the general municipal
17 law made by section one of this act shall not affect the expiration of
18 such subdivision and shall be deemed to expire therewith.

19

PART E

20 Section 1. Section 2431 of the public authorities law is amended by
21 adding a new closing paragraph to read as follows:

22 IT IS FURTHER DECLARED TO BE IN THE PUBLIC INTEREST AND IT IS THE
23 POLICY OF THE STATE TO PROVIDE A MEANS BY WHICH A MUNICIPALITY IN THE
24 STATE CAN TAKE ADVANTAGE OF THE OPPORTUNITIES FOR BORROWING TO PROVIDE
25 FOR PUBLIC IMPROVEMENTS AFFORDED BY THE AMERICAN RECOVERY AND REINVEST-
26 MENT ACT OF 2009 AND TO DO SO BY AUTHORIZING A STATE INSTRUMENTALITY TO
27 BORROW MONEY AND USE THE PROCEEDS TO PURCHASE OBLIGATIONS ISSUED BY A
28 MUNICIPALITY UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009,
29 THEREBY RESULTING IN EFFICIENCIES AND INTEREST RATE SAVINGS TO THE MUNI-
30 CIPALITY.

31 S 2. Subdivisions 2, 3 and 10 of section 2432 of the public authori-
32 ties law, as amended by section 67 of part H of chapter 83 of the laws
33 of 2002, are amended, and two new subdivisions 25 and 26 are added to
34 read as follows:

35 (2) "Bonds" and "Notes". The bonds and notes, including any special
36 program bonds [and], special school purpose bonds, AND RECOVERY ACT
37 BONDS, respectively issued by the agency pursuant to this title. Bonds
38 and notes shall not include any tax lien collateralized securities
39 issued pursuant to this title.

40 (3) "Municipal Bond". A bond or note or evidence of debt payable from
41 any local revenues, including taxes, assessments and rents, which a
42 municipality may lawfully issue to finance local improvements and public
43 purposes, INCLUDING LOCAL ARRA BONDS, but does not include (a) any bond
44 or note or evidence of debt issued by any other state or any public body
45 or municipal corporation thereof, (b) any special program agreement, or
46 (c) any special school purpose agreement or any special school deficit
47 program agreement.

48 (10) "Debt Service Reserve Fund Requirement". With respect to any debt
49 service reserve fund created by section [two thousand four] TWENTY-FOUR
50 hundred thirty-nine of this title relating to bonds other than special
51 program bonds or special school purpose bonds or special school deficit
52 program bonds OR RECOVERY ACT BONDS, as of any particular date of compu-
53 tation, an amount of money equal to the greatest of the respective
54 amounts, for the then current or any succeeding calendar year, of annual

1 debt service payments required to be made to the agency on all municipal
2 bonds purchased with the proceeds of bonds which bonds are secured by
3 such debt service reserve fund, such annual debt service payments for
4 any calendar year being an amount of money equal to the aggregate of (a)
5 all interest payable during such calendar year on all municipal bonds
6 purchased by the agency and then outstanding on said date of computation
7 which are secured by such debt service reserve fund, plus (b) the prin-
8 cipal amount of all municipal bonds purchased by the agency and then
9 outstanding on said date of computation which mature during such calen-
10 dar year and are secured by such debt service reserve fund; and with
11 respect to any debt service reserve fund created by section [two thou-
12 sand four] TWENTY-FOUR hundred thirty-nine of this title relating to an
13 issue or issues of special program bonds or special school purpose bonds
14 or special school deficit program bonds OR RECOVERY ACT BONDS, such
15 amount as shall be determined by the agency.

16 (25) "RECOVERY ACT BONDS". AN ISSUE OF BONDS OF THE AGENCY, ALL OR A
17 PORTION OF THE PROCEEDS OF WHICH ARE USED TO PURCHASE LOCAL ARRA BONDS.

18 (26) "LOCAL ARRA BONDS". A MUNICIPAL BOND ISSUED TO FINANCE OR REFI-
19 NANCE PURPOSES ELIGIBLE, IN WHOLE OR IN PART, FOR SUBSIDIES OR TAX CRED-
20 ITS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

21 S 3. Section 2434 of the public authorities law is amended by adding a
22 new subdivision 7-b to read as follows:

23 (7-B) TO ACQUIRE AND CONTRACT TO ACQUIRE LOCAL ARRA BONDS, AND TO
24 ENTER INTO ARRANGEMENTS WITH A MUNICIPALITY FOR THE PURCHASE OF ITS
25 LOCAL ARRA BONDS;

26 S 4. Subdivisions 1 and 2 of section 2435 of the public authorities
27 law, subdivision 1 as amended by chapter 346 of the laws of 1974, subdi-
28 vision 2 as added by chapter 902 of the laws of 1972, are amended to
29 read as follows:

30 1. The agency may purchase, and contract to purchase, municipal bonds
31 from municipalities at such price or prices, upon such terms and condi-
32 tions and in such manner, not inconsistent with the provisions of the
33 local finance law, as the agency shall deem advisable; provided, howev-
34 er, that the average interest rate payable on all municipal bonds (taken
35 as a group) purchased with the proceeds of an issue of bonds shall equal
36 or exceed the interest rate on such issue of bonds[; and provided
37 further, however, that the]. THE agency shall not purchase the municipal
38 bonds of any municipality if (I) the aggregate principal amount thereof,
39 together with the aggregate principal balances of the municipal bonds of
40 such municipality then outstanding and held by the agency, exceed an
41 amount equal to ten percent of the aggregate principal amount of the
42 statutory authorization at the time for the issuance of bonds and notes,
43 as provided in section twenty-four hundred thirty-eight of this title,
44 and [the agency shall not purchase the municipal bonds of any municipi-
45 pality if] (II) the aggregate principal amount thereof exceeds an amount
46 equal to fifty percent of the aggregate principal amount of all municipi-
47 pal bonds proposed to be so purchased at the time; PROVIDED, HOWEVER,
48 THAT THIS SENTENCE SHALL NOT APPLY TO LOCAL ARRA BONDS.

49 2. The agency shall require as a condition of purchase of municipal
50 bonds from municipalities that each such municipality shall agree (i) to
51 pledge its full faith and credit for the payment of the principal of and
52 interest on such municipal bonds, (ii) to make annual appropriations for
53 amounts required for the payment of such principal and interest, and
54 (iii) if at any time the municipality fails to make the required appro-
55 priation to pay such principal and interest, or fails to make the
56 payment of the required principal and interest, the provisions of

1 section twenty-four hundred [and] thirty-six AND/OR TWENTY-FOUR HUNDRED
2 THIRTY-SIX-B of this title shall take effect. All municipalities selling
3 municipal bonds to the agency are hereby authorized to make and carry
4 out the agreements with the agency required in this subdivision.

5 S 5. The public authorities law is amended by adding a new section
6 2436-b to read as follows:

7 S 2436-B. LOCAL ARRA BONDS. (1) THE AGENCY MAY PURCHASE LOCAL ARRA
8 BONDS USING THE PROCEEDS OF RECOVERY ACT BONDS, SUBJECT TO THE
9 PROVISIONS OF THIS SECTION AND TO ANY OTHER PROVISION OF LAW APPLICABLE
10 TO THE MUNICIPALITY AND BONDS IT ISSUES, INCLUDING ANY DEBT LIMITATION
11 APPLICABLE TO THE MUNICIPALITY THAT ISSUED THE LOCAL ARRA BOND, AS WELL
12 AS TO THE OTHER PROVISIONS OF THIS TITLE. TO THE EXTENT THAT ANY SUCH
13 OTHER PROVISION OF LAW CONFLICTS WITH A PROVISION OF THIS SECTION, THE
14 PROVISION OF THIS SECTION SHALL CONTROL, EXCEPT AS OTHERWISE STATED.

15 (2) SUBJECT TO THE PROVISIONS OF THIS SECTION:

16 (A) LOCAL ARRA BONDS ISSUED BY A COUNTY, EXCEPT A COUNTY WHOLLY WITHIN
17 A CITY, MAY BE ADDITIONALLY SECURED BY A PLEDGE TO THE AGENCY OF ITS
18 AVAILABLE COUNTY SALES TAX REVENUES SUBJECT TO THE PROVISIONS OF SUBDI-
19 VISION FIVE OF THIS SECTION.

20 (B) LOCAL ARRA BONDS ISSUED BY A CITY MAY BE ADDITIONALLY SECURED BY A
21 PLEDGE TO THE AGENCY OF ITS AVAILABLE CITY SALES TAX REVENUES OR ITS
22 AVAILABLE MORTGAGE RECORDING TAX REVENUES, OR BOTH SUBJECT TO THE
23 PROVISIONS OF SUBDIVISION FIVE OF THIS SECTION.

24 (C) LOCAL ARRA BONDS ISSUED BY A TOWN MAY BE ADDITIONALLY SECURED BY A
25 PLEDGE TO THE AGENCY OF ITS AVAILABLE MORTGAGE RECORDING TAX REVENUES
26 SUBJECT TO THE PROVISIONS OF SUBDIVISION FIVE OF THIS SECTION.

27 (D) LOCAL ARRA BONDS ISSUED BY A VILLAGE MAY BE ADDITIONALLY SECURED
28 BY A PLEDGE TO THE AGENCY OF ITS AVAILABLE MORTGAGE RECORDING TAX REVEN-
29 UES SUBJECT TO THE PROVISIONS OF SUBDIVISION FIVE OF THIS SECTION.

30 (3) (A) NOTHING CONTAINED IN THIS TITLE SHALL LIMIT THE RIGHT AND
31 OBLIGATIONS OF A MUNICIPALITY TO COMPLY WITH THE PROVISIONS OF ANY
32 EXISTING CONTRACT WITH OR FOR THE BENEFIT OF THE HOLDERS OF ANY OF ITS
33 OTHER BONDS, NOTES OR OTHER OBLIGATIONS.

34 (B) NOTHING CONTAINED IN THIS TITLE SHALL BE CONSTRUED TO LIMIT THE
35 POWER OF A MUNICIPALITY TO DETERMINE, FROM TIME TO TIME, WITHIN AVAIL-
36 ABLE FUNDS FOR THE MUNICIPALITY, THE PURPOSES FOR WHICH EXPENDITURES ARE
37 TO BE MADE BY THE MUNICIPALITY AND THE AMOUNTS OF SUCH EXPENDITURES.

38 (C) NOTHING CONTAINED IN THIS TITLE SHALL ALTER, LIMIT, MODIFY OR
39 IMPAIR THE RIGHT OF ANY SCHOOL DISTRICT OR OF ANY CITY, TOWN, OR VILLAGE
40 WITHIN A COUNTY TO RECEIVE FROM THE COUNTY NET COLLECTIONS, AS AUTHOR-
41 IZED BY SECTION TWELVE HUNDRED SIXTY-TWO OF THE TAX LAW OR OTHER APPLI-
42 CABLE PROVISION OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX LAW OR BY
43 AN UNCONSOLIDATED STATE LAW THAT NOTWITHSTANDS SUCH PROVISION OF THE TAX
44 LAW, FROM THE COUNTY'S SALES AND COMPENSATING USE TAXES IMPOSED PURSUANT
45 TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THE
46 TAX LAW. FURTHER, NOTHING CONTAINED IN THIS TITLE SHALL ALTER, LIMIT,
47 MODIFY OR IMPAIR THE RIGHT OF ANY CITY OR TOWN WITHIN A COUNTY TO
48 RECEIVE FROM THE COUNTY THE NET AMOUNT OF MORTGAGE RECORDING TAX REVEN-
49 UES IMPOSED BY SUBDIVISION ONE OF SECTION TWO HUNDRED FIFTY-THREE OF THE
50 TAX LAW, AS AUTHORIZED BY SUBDIVISION THREE OF SECTION TWO HUNDRED
51 SIXTY-ONE OF THE TAX LAW.

52 (D) THE AGENCY'S RECOVERY ACT BONDS SECURED BY PAYMENTS OF PRINCIPAL
53 AND INTEREST DUE WITH RESPECT TO LOCAL ARRA BONDS SHALL NOT BE A DEBT OF
54 EITHER THE STATE OR ANY MUNICIPALITY, AND NEITHER THE STATE NOR ANY
55 MUNICIPALITY SHALL BE LIABLE THEREON, NOR SHALL THEY BE PAYABLE OUT OF

1 ANY FUNDS OTHER THAN THOSE OF THE AGENCY; AND SUCH RECOVERY ACT BONDS
2 SHALL CONTAIN ON THE FACE THEREOF A STATEMENT TO SUCH EFFECT.

3 (E) SUBJECT TO THE PROVISIONS OF ANY CONTRACT WITH HOLDERS OF BONDS,
4 NOTES OR OTHER OBLIGATIONS, PROCEEDS OF RECOVERY ACT BONDS TO BE PAID TO
5 A MUNICIPALITY TO PURCHASE ITS LOCAL ARRA BONDS SHALL BE PAID TO THE
6 MUNICIPALITY AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEY OF THE
7 AGENCY.

8 (F) NOTHING CONTAINED IN THIS TITLE SHALL BE CONSTRUED TO CREATE A
9 DEBT OF THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY
10 PROVISIONS. ANY PROVISION WITH RESPECT TO STATE AID SHALL BE DEEMED
11 EXECUTORY ONLY TO THE EXTENT OF MONEYS AVAILABLE, AND NO LIABILITY SHALL
12 BE INCURRED BY THE STATE BEYOND THE MONEYS AVAILABLE FOR THAT PURPOSE,
13 AND ANY PAYMENT TO BE MADE BY THE COMPTROLLER OF STATE AID IS SUBJECT TO
14 ANNUAL APPROPRIATION OF STATE AID BY THE STATE LEGISLATURE.

15 (G) NOTHING CONTAINED IN THIS TITLE SHALL BE DEEMED TO RESTRICT THE
16 RIGHT OF THE STATE TO AMEND, REPEAL, MODIFY, OR OTHERWISE ALTER ANY
17 PROVISION OF LAW RELATING TO STATE AID TO MUNICIPALITIES. THE AGENCY
18 SHALL INCLUDE IN ANY RESOLUTION, CONTRACT, OR AGREEMENT WITH HOLDERS OF
19 ITS BONDS, NOTES OR OTHER OBLIGATIONS A PROVISION WHICH STATES THAT NO
20 DEFAULT OCCURS AS A RESULT OF THE STATE'S EXERCISING ITS RIGHT TO AMEND,
21 REPEAL, MODIFY, OR OTHERWISE ALTER ANY PROVISION OF LAW RELATING TO
22 STATE AID TO MUNICIPALITIES.

23 (4) (A) A MUNICIPALITY MAY COVENANT AND AGREE THAT THE MUNICIPALITY
24 WILL NOT LIMIT, ALTER OR IMPAIR THE RIGHTS HEREBY VESTED IN THE AGENCY
25 TO FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH HOLDERS OF THE AGENCY'S
26 RECOVERY ACT BONDS, THE PROCEEDS OF WHICH WERE USED TO PURCHASE THE
27 MUNICIPALITY'S LOCAL ARRA BONDS, SUCH HOLDERS PURSUANT TO THIS TITLE, OR
28 IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF SUCH HOLDERS OR THE SECURI-
29 TY FOR SUCH BONDS, UNTIL SUCH BONDS, TOGETHER WITH THE INTEREST THEREON
30 AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDING
31 BY OR ON BEHALF OF SUCH HOLDERS, ARE FULLY PAID AND DISCHARGED. NOTHING
32 CONTAINED IN THIS TITLE SHALL BE DEEMED TO RESTRICT ANY RIGHT OF THE
33 MUNICIPALITY TO AMEND, MODIFY, REPEAL OR OTHERWISE ALTER ANY LOCAL LAWS,
34 ORDINANCES OR RESOLUTIONS IMPOSING OR RELATING TO TAXES OR FEES, OR
35 APPROPRIATIONS RELATING TO SUCH TAXES OR FEES, OR SETTING ASIDE OR ALLO-
36 CATING AND APPLYING, PAYING OR USING NET COLLECTIONS PURSUANT TO THE
37 AUTHORITY OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX LAW OR PURSUANT
38 TO THE AUTHORITY OF ANY OTHER PROVISION OF STATE LAW THAT NOTWITHSTANDS
39 A PROVISION OF SUCH PART, SO LONG AS, AFTER GIVING EFFECT TO SUCH AMEND-
40 MENT, MODIFICATION OR OTHER ALTERATION, THE AGGREGATE AMOUNT AS THEN
41 PROJECTED BY THE MUNICIPALITY OF (I) SALES AND COMPENSATING USE TAXES
42 IMPOSED BY THE MUNICIPALITY PURSUANT TO THE AUTHORITY OF SUBPART B OF
43 PART ONE OF ARTICLE TWENTY-NINE OF THE TAX LAW (TO THE EXTENT THAT THE
44 MUNICIPALITY IS AUTHORIZED TO IMPOSE SUCH TAXES AND IS IMPOSING THEM AT
45 THE TIME IT ISSUES ITS LOCAL ARRA BONDS); AND (II) ALL SUCH NET
46 COLLECTIONS TO BE SET ASIDE OR TO BE ALLOCATED AND APPLIED, PAID OR USED
47 BY THE MUNICIPALITY PURSUANT TO THE AUTHORITY OF PART FOUR OF ARTICLE
48 TWENTY-NINE OF THE TAX LAW OR PURSUANT TO ANY OTHER PROVISION OF STATE
49 LAW THAT NOTWITHSTANDS A PROVISION OF SUCH PART FOUR DURING EACH OF THE
50 AGENCY'S FISCAL YEARS FOLLOWING THE EFFECTIVE DATE OF SUCH AMENDMENT,
51 MODIFICATION OR OTHER ALTERATION SHALL BE NOT LESS THAN TWO HUNDRED
52 PERCENT OF MAXIMUM ANNUAL DEBT SERVICE ON THE MUNICIPALITY'S LOCAL ARRA
53 BONDS THEN OUTSTANDING. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS
54 SECTION, A MUNICIPALITY THAT IMPOSES SALES AND COMPENSATING USE TAXES AT
55 THE TIME IT ISSUES LOCAL ARRA BONDS FURTHER AGREES THAT IT SHALL CONTIN-
56 UE TO IMPOSE SUCH TAXES DURING THE TIME SUCH BONDS ARE OUTSTANDING AT

1 THE MAXIMUM RATE AUTHORIZED THEREFOR, WITHOUT REGARD TO ANY ADDITIONAL
2 RATE, PROVIDED THAT ANY INCREASE IN THE RATE OF SUCH TAXES TO SATISFY
3 THIS OBLIGATION SHALL COMPLY WITH THE APPLICABLE PROVISIONS OF SUBPART B
4 OF PART ONE OF ARTICLE TWENTY-NINE OF THE TAX LAW.

5 (B) ANY SUCH AGREEMENT WITH A MUNICIPALITY MAY BE PLEDGED BY THE AGEN-
6 CY TO SECURE ITS RECOVERY ACT BONDS USED TO PURCHASE LOCAL ARRA BONDS
7 ISSUED BY THAT MUNICIPALITY AND MAY NOT BE MODIFIED THEREAFTER EXCEPT AS
8 PROVIDED BY THE TERMS OF THE PLEDGE OR SUBSEQUENT AGREEMENTS WITH THE
9 HOLDERS OF SUCH RECOVERY ACT BONDS.

10 (C) THE AGENCY SHALL NOT INCLUDE WITHIN ANY RESOLUTION, CONTRACT OR
11 AGREEMENT WITH HOLDERS OF RECOVERY ACT BONDS ANY PROVISION WHICH
12 PROVIDES THAT A DEFAULT OCCURS AS A RESULT OF A MUNICIPALITY EXERCISING
13 ITS RIGHT TO AMEND, MODIFY, REPEAL OR OTHERWISE ALTER SUCH TAXES, FEES
14 OR APPROPRIATIONS OR SUCH NET COLLECTIONS. NOTHING IN THIS TITLE SHALL
15 BE DEEMED TO OBLIGATE A MUNICIPALITY TO MAKE ANY PAYMENTS OR IMPOSE ANY
16 TAXES OR SET ASIDE OR ALLOCATE AND APPLY, PAY OR USE NET COLLECTIONS
17 PURSUANT TO THE AUTHORITY OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX
18 LAW OR PURSUANT TO THE AUTHORITY OF AN UNCONSOLIDATED STATE LAW THAT
19 NOTWITHSTANDS A PROVISION OF SUCH PART; EXCEPT THAT A MUNICIPALITY SHALL
20 IMPOSE TAXES PURSUANT TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTI-
21 CLE TWENTY-NINE OF THE TAX LAW AT THE MAXIMUM RATE AUTHORIZED THEREFOR,
22 WITHOUT REGARD TO ANY ADDITIONAL RATE, PROVIDED THAT ANY INCREASE IN THE
23 RATE OF SUCH TAXES TO SATISFY THIS OBLIGATION SHALL COMPLY WITH THE
24 APPLICABLE PROVISIONS OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF
25 THE TAX LAW.

26 (5) (A) IF A MUNICIPALITY FAILS TO PAY TO THE AGENCY ANY PRINCIPAL OR
27 INTEREST DUE ON ITS LOCAL ARRA BONDS SECURED BY A PLEDGE OF ITS AVAIL-
28 ABLE LOCAL SALES AND USE TAX REVENUES OR ITS AVAILABLE MORTGAGE RECORD-
29 ING TAX REVENUES, OR BOTH, AS DESCRIBED IN SUBDIVISION TWO OF THIS
30 SECTION, THE CHAIRMAN OF THE AGENCY SHALL NOTIFY THE COMPTROLLER IN
31 WRITING THAT SUCH MUNICIPALITY HAS FAILED TO MEET ITS OBLIGATIONS. SUCH
32 NOTICE SHALL SET FORTH IN DETAIL THE TERM, AMOUNT, INTEREST RATE, AND
33 PAYMENT SCHEDULE OF THE LOCAL ARRA BONDS IN DEFAULT, AND THE EXACT
34 AMOUNTS OF PRINCIPAL AND INTEREST DUE FROM SUCH MUNICIPALITY IN DEFAULT.
35 THE AGENCY SHALL PROVIDE A COPY OF SUCH NOTICE TO THE CHIEF FISCAL OFFI-
36 CER OF SUCH MUNICIPALITY IN DEFAULT AND, IN THE CASE OF A DEFAULT BY A
37 CITY, TOWN, OR VILLAGE WITH RESPECT TO LOCAL ARRA BONDS SECURED BY MORT-
38 GAGE RECORDING TAX REVENUES, ALSO TO THE CHIEF FISCAL OFFICER OF THE
39 COUNTY IN WHICH THE CITY, TOWN, OR VILLAGE IS LOCATED. THE AGENCY SHALL
40 PROVIDE SUCH NOTICE TO THE COMPTROLLER AT LEAST THIRTY DAYS PRIOR TO THE
41 DATE THAT THE COMPTROLLER IS EXPECTED TO WITHHOLD AND PAY OVER LOCAL
42 SALES AND USE TAX REVENUES TO THE AGENCY.

43 (B) UPON THE COMPTROLLER RECEIVING SUCH COMPLETE, CERTIFIED WRITTEN
44 NOTICE FROM THE AGENCY, THE COMPTROLLER SHALL, NOTWITHSTANDING ANY
45 PROVISION OF SECTION TWELVE HUNDRED SIXTY-ONE OF THE TAX LAW TO THE
46 CONTRARY, PAY TO THE AGENCY, ON OR BEFORE THE FIFTEENTH DAY OF EACH
47 MONTH, ALL OR A PORTION OF THE LOCAL SALES AND USE TAX REVENUES DUE THE
48 MUNICIPALITY IN DEFAULT, UNTIL THE AMOUNT CERTIFIED IN DEFAULT HAS BEEN
49 EXTINGUISHED. THE COMPTROLLER SHALL MAKE SUCH PAYMENTS TO THE AGENCY
50 ONLY OUT OF NET COLLECTIONS NOT OTHERWISE PLEDGED, REQUIRED TO BE INTER-
51 CEPTED OR OTHERWISE ENCUMBERED BY PROVISIONS OF LAW IN EFFECT IMMEDIATE-
52 LY PRIOR TO THE DATE THE MUNICIPALITY'S LOCAL ARRA BONDS SECURED BY A
53 PLEDGE AUTHORIZED BY THIS SECTION SHALL HAVE BEEN ISSUED.

54 (C) UPON RECEIVING SUCH COMPLETE, CERTIFIED WRITTEN NOTICE FROM THE
55 AGENCY, THE CHIEF FISCAL OFFICER OF A COUNTY, NOTWITHSTANDING THE
56 PROVISIONS OF SECTION TWO HUNDRED SIXTY-ONE OF THE TAX LAW, SHALL PAY

1 OVER TO THE COMPTROLLER, THE NET AMOUNT OF MORTGAGE RECORDING TAX REVEN-
2 UES IMPOSED BY SUBDIVISION ONE OF SECTION TWO HUNDRED FIFTY-THREE OF THE
3 TAX LAW DUE TO THE CITY, TOWN, OR VILLAGE IN DEFAULT. THE CHIEF FISCAL
4 OFFICER OF THE COUNTY SHALL CONTINUE TO MAKE THOSE PAYMENTS TO THE COMP-
5 TROLLER UNTIL THE AGENCY SENDS CERTIFIED NOTICE TO THE OFFICER AND TO
6 THE COMPTROLLER THAT THE CITY OR TOWN IS NO LONGER IN DEFAULT. THE COMP-
7 TROLLER SHALL PAY TO THE AGENCY, ON OR BEFORE THE FIFTEENTH DAY OF EACH
8 MONTH, ALL OR A PORTION OF THE MORTGAGE RECORDING TAX REVENUES RECEIVED
9 FROM THE CHIEF FISCAL OFFICER OF THE COUNTY, UNTIL THE AMOUNT CERTIFIED
10 IN DEFAULT HAS BEEN EXTINGUISHED.

11 (D) SUCH PAYMENTS BY THE COMPTROLLER TO THE AGENCY SHALL BE MADE ON
12 ACCOUNT OF, AND FOR THE BENEFIT OF, THE MUNICIPALITY IN DEFAULT. IF SO
13 REQUESTED BY THE AGENCY, AS INDICATED IN ITS CERTIFIED NOTICE TO THE
14 COMPTROLLER, THE COMPTROLLER SHALL MAKE SUCH PAYMENTS TO A TRUSTEE
15 PURSUANT TO AN INDENTURE FOR HOLDERS OF THE RECOVERY ACT BONDS ISSUED BY
16 THE AGENCY THAT WERE USED TO PURCHASE THE MUNICIPALITY'S LOCAL ARRA
17 BONDS IN DEFAULT. SUCH PAYMENTS BY THE COMPTROLLER ON BEHALF OF SUCH
18 MUNICIPALITY SHALL BE APPLIED BY THE AGENCY OR, IF PAID DIRECTLY TO THE
19 TRUSTEE, BY SUCH TRUSTEE, TO CURE THAT MUNICIPALITY'S DEFAULT. TO THE
20 EXTENT THE COMPTROLLER MAKES ANY SUCH PAYMENT TO THE AGENCY OR TO SUCH A
21 TRUSTEE, THE MUNICIPALITY'S DEFAULT SHALL BE CURED.

22 (E) THE COMPTROLLER SHALL NOT BE RESPONSIBLE FOR ANY INACCURACY IN THE
23 AMOUNT OF SUCH PAYMENTS BASED UPON THE NOTICE FURNISHED BY THE AGENCY.
24 THE COMPTROLLER SHALL NOT BE REQUIRED TO MAKE PAYMENTS UNDER THIS SUBDI-
25 VISION WHICH ARE GREATER THAN THE AMOUNTS OF LOCAL SALES AND USE TAX
26 REVENUES DUE THE MUNICIPALITY, AS CERTIFIED TO THE COMPTROLLER BY THE
27 COMMISSIONER OF TAXATION AND FINANCE AS PROVIDED IN SUBDIVISION (C) OF
28 SECTION TWELVE HUNDRED SIXTY-ONE OF THE TAX LAW (SUBJECT TO THE LIMITA-
29 TION IN PARAGRAPH (B) OF THIS SUBDIVISION), OR WHICH ARE GREATER THAN
30 THE AMOUNT OF NET MORTGAGE RECORDING TAX REVENUES PAID TO THE COMP-
31 TROLLER BY THE CHIEF FISCAL OFFICER OF THE COUNTY. AFTER THE COMPTROLLER
32 MAKES ANY PAYMENTS OF NET COLLECTIONS REQUIRED UNDER THIS SECTION, THE
33 COMPTROLLER SHALL PAY ANY BALANCE OF NET COLLECTIONS DUE SUCH MUNICI-
34 PALITY TO SUCH MUNICIPALITY IN THE MANNER PROVIDED IN SUBDIVISION (C) OF
35 SECTION TWELVE HUNDRED SIXTY-ONE OF THE TAX LAW OR OTHER APPLICABLE LAW.
36 THE COMPTROLLER SHALL BE REQUIRED TO MAKE PAYMENTS UNDER THIS SECTION
37 FOR ONLY SO LONG AS THE MUNICIPALITY IS IN DEFAULT AS CERTIFIED IN THE
38 AGENCY'S NOTICE TO THE COMPTROLLER.

39 (F) THE AUTHORITY IN THIS SECTION TO WITHHOLD LOCAL SALES AND USE TAX
40 REVENUES AND MORTGAGE RECORDING TAX REVENUES AND PAY THEM OVER TO THE
41 AGENCY SHALL BE IN ADDITION TO THE STATE AID GUARANTY SET FORTH IN
42 SECTION TWENTY FOUR HUNDRED THIRTY-SIX OF THIS TITLE; AND THE AGENCY MAY
43 CERTIFY THAT EITHER OR BOTH REVENUE SOURCES MAY BE WITHHELD TO THE
44 EXTENT NECESSARY TO SATISFY THE MUNICIPALITY'S UNMET OBLIGATIONS TO THE
45 AGENCY.

46 (G) ANY WITHHOLDING OF REVENUES PURSUANT TO THIS SUBDIVISION OR STATE
47 AID PURSUANT TO SECTION TWENTY-FOUR HUNDRED THIRTY-SIX OF THIS TITLE
48 WITH RESPECT TO LOCAL ARRA BONDS SHALL BE MADE IN CONSULTATION WITH THE
49 DIRECTOR OF THE BUDGET OF THE STATE; PROVIDED, HOWEVER, SUCH CONSULTA-
50 TION SHALL NOT DELAY OR OTHERWISE ADVERSELY AFFECT THE AGENCY'S RIGHT TO
51 RECEIVE TIMELY PAYMENT OF SUCH REVENUES AND/OR STATE AID.

52 (6) WHEN USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
53 FOLLOWING MEANINGS UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

54 (A) "SALES AND COMPENSATING USE TAXES" MEANS TAXES IMPOSED BY A COUNTY
55 OR CITY PURSUANT TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE
56 TWENTY-NINE OF THE TAX LAW.

(B) "NET COLLECTIONS" SHALL HAVE THE SAME MEANING AS IN SUBDIVISION (F) OF SECTION TWELVE HUNDRED SIXTY-TWO OF THE TAX LAW.

(C) "COUNTY SALES TAX REVENUES" MEANS NET COLLECTIONS SET ASIDE FOR COUNTY PURPOSES PURSUANT TO SUBDIVISION (A) OF SECTION TWELVE HUNDRED SIXTY-TWO OF THE TAX LAW OR OTHER APPLICABLE PROVISION OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX LAW, FROM A COUNTY'S SALES AND COMPENSATING USE TAXES.

(D) "CITY SALES TAX REVENUES" MEANS NET COLLECTIONS FROM A CITY'S SALES AND COMPENSATING USE TAXES.

(E) "MUNICIPALITY" MEANS MUNICIPALITY AS DEFINED IN PARAGRAPH ONE OF SECTION 2.00 OF THE LOCAL FINANCE LAW.

(F) "LOCAL SALES AND USE TAX REVENUES" MEANS ANY OF THE TAX REVENUES DEFINED IN PARAGRAPH (C) OR (D) OF THIS SUBDIVISION, OR ANY COMBINATION OF THEM, AS THE CASE MAY BE.

(G) "SECURE" MEANS A PLEDGE OF SALES AND COMPENSATING USE TAXES OR MORTGAGE RECORDING TAXES FOR THE PURPOSES OF DEFAULT BY A MUNICIPALITY AS A RESULT OF A FAILURE TO PAY DEBT SERVICE ON ITS LOCAL ARRA BONDS.

S 6. Subdivision 5 of section 2437 of the public authorities law, as amended by section 73 of part H of chapter 83 of the laws of 2002, is amended to read as follows:

(5) Any bonds or notes of the agency other than special program bonds, special school purpose bonds [or], special school deficit program bonds OR RECOVERY ACT BONDS shall be sold at public sale and from time to time upon such terms and at such prices as may be determined by the agency, and the agency may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof. Any special program bonds, special school purpose bonds [or], special school deficit program bonds OR RECOVERY ACT BONDS shall be sold at public or private sale and from time to time upon such terms and at such prices as may be determined by the agency, and the agency may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof provided, however, that special program bonds relating to a special program agreement entered for the purpose described in paragraph (b) of subdivision one of section twenty-four hundred thirty-five-a of this title shall be sold on or before June thirtieth, two thousand one. No special program bonds, special school purpose bonds [or], special school deficit program bonds, OR RECOVERY ACT BONDS of the agency may be sold by the agency at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

S 7. Subdivision 1 of section 2438 of the public authorities law, as amended by section 24 of part A4 of chapter 58 of the laws of 2006, is amended to read as follows:

(1) The agency shall not issue bonds and notes in an aggregate principal amount at any one time outstanding exceeding one billion dollars, excluding tax lien collateralized securities, special school purpose bonds, special school deficit program bonds, special program bonds issued to finance the reconstruction, rehabilitation or renovation of an educational facility pursuant to the provisions of subdivision (b) of section sixteen of chapter six hundred five of the laws of two thousand, special program bonds issued to finance the cost of a project for design, reconstruction or rehabilitation of a school building pursuant to the provisions of section fourteen of the city of Syracuse and the board of education of the city school district of the city of Syracuse

1 cooperative school reconstruction act, RECOVERY ACT BONDS and bonds and
2 notes issued to refund outstanding bonds and notes.

3 S 8. Section 2442 of the public authorities law, as amended by chapter
4 203 of the laws of 2000, is amended to read as follows:

5 S 2442. Agreement of the state. (1) The state of New York does hereby
6 pledge to and agree with the holders of any bonds, notes or tax lien
7 collateralized securities issued under this title that the state will
8 not limit or alter the rights hereby vested in the agency to fulfill the
9 terms of any agreements made with the holders thereof, or in any way
10 impair the rights and remedies of such holders until such bond, notes or
11 tax lien collateralized securities together with the interest thereon,
12 with interest on any unpaid installments of interest, and all costs and
13 expenses in connection with any action or proceedings by or on behalf of
14 such holders, are fully met and discharged. The agency is authorized to
15 include this pledge and agreement of the state in any agreement with the
16 holders of such bonds, notes or tax lien collateralized securities.
17 NOTHING CONTAINED IN THIS TITLE SHALL BE DEEMED TO RESTRICT ANY RIGHT OF
18 THE STATE TO AMEND, MODIFY, REPEAL OR OTHERWISE ALTER (A) ANY PROVISION
19 OF LAW RELATING TO STATE AID, OR (B) STATUTES IMPOSING OR RELATING TO
20 TAXES OR FEES, OR (C) APPROPRIATIONS RELATING THERETO.

21 (2) THE AGENCY SHALL NOT INCLUDE WITHIN ANY RESOLUTION, CONTRACT OR
22 AGREEMENT WITH HOLDERS OF THE BONDS, NOTES OR OTHER OBLIGATIONS ISSUED
23 UNDER THIS TITLE ANY PROVISION WHICH PROVIDES THAT A DEFAULT OCCURS AS A
24 RESULT OF THE STATE EXERCISING ITS RIGHT TO AMEND, MODIFY, OR REPEAL OR
25 OTHERWISE ALTER (A) ANY PROVISION OF LAW RELATING TO STATE AID; OR (B)
26 STATUTES IMPOSING OR RELATING TO TAXES OR FEES, OR (C) APPROPRIATIONS
27 RELATING THERETO. NOTHING IN THIS TITLE SHALL BE DEEMED TO OBLIGATE THE
28 STATE TO MAKE ANY PAYMENTS OR IMPOSE ANY TAXES TO SATISFY THE DEBT
29 SERVICE OBLIGATIONS OF THE AGENCY.

30 S 9. Section 85.80 of the local finance law, as amended by chapter 777
31 of the laws of 1978, is amended to read as follows:

32 S 85.80 Authority for municipality or emergency financial control
33 board to file petition under federal statute. A municipality or its
34 emergency financial control board in addition to, or in lieu of, filing
35 a petition under this title, or the city of New York or the New York
36 state financial control board, may file any petition with any United
37 States district court or court of bankruptcy under any provision of the
38 laws of the United States, now or hereafter in effect, for the composi-
39 tion or adjustment of municipal indebtedness. Nothing contained in this
40 title shall be construed to limit the authorization granted by this
41 section. HOWEVER, NO MUNICIPALITY SHALL FILE ANY PETITION AUTHORIZED BY
42 THIS SECTION FOR SO LONG AS ITS LOCAL ARRA BONDS, AS DEFINED IN SECTION
43 TWENTY-FOUR HUNDRED THIRTY-TWO OF THE PUBLIC AUTHORITIES LAW, PURCHASED
44 BY THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY AND SECURED BY ITS
45 PLEDGE OF TAX REVENUES PURSUANT TO THE AUTHORITY OF SECTION TWENTY-FOUR
46 HUNDRED THIRTY-SIX-B OF THE PUBLIC AUTHORITIES LAW REMAIN OUTSTANDING.

47 S 10. Subdivision 1 of section 51 of the public authorities law is
48 amended by adding a new paragraph m to read as follows:

49 M. STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY FOR BONDS ISSUED
50 PURSUANT TO SECTION TWO THOUSAND FOUR HUNDRED THIRTY-SIX-B OF THIS CHAP-
51 TER

52 S 11. Section 51 of the public authorities law is amended by adding a
53 new subdivision 3-a to read as follows:

54 3-A. THE BOARD SHALL NOT APPROVE RECOVERY ACT BONDS APPLICATIONS
55 PROVIDED BY THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY UNLESS THE

1 BOARD FINDS SUFFICIENT INTEREST RATE AND OTHER SAVINGS TO EACH PARTIC-
2 IPATING MUNICIPALITY.

3 S 12. Section 2976 of the public authorities law is amended by adding
4 a new subdivision 4 to read as follows:

5 4. THE PROVISIONS OF SUBDIVISIONS ONE AND TWO OF THIS SECTION SHALL
6 NOT APPLY TO RECOVERY ACT BONDS ISSUED BY THE STATE OF NEW YORK MUNICI-
7 PAL BOND BANK AGENCY IN CONNECTION WITH LOCAL AMERICAN RECOVERY AND
8 REINVESTMENT ACT PURSUANT TO SECTION TWO THOUSAND FOUR HUNDRED
9 THIRTY-SIX-B OF THIS CHAPTER.

10 S 13. This act shall take effect immediately.

11 PART F

12 Section 1. Subdivisions (a) and (b) of section 4545 of the civil prac-
13 tice law and rules are REPEALED.

14 S 2. Subdivision (c) of section 4545 of the civil practice law and
15 rules, as added by chapter 220 of the laws of 1986, is amended to read
16 as follows:

17 [(c)] (A) Actions for personal injury, injury to property or wrongful
18 death. In any action brought to recover damages for personal injury,
19 injury to property or wrongful death, where the plaintiff seeks to
20 recover for the cost of medical care, dental care, custodial care or
21 rehabilitation services, loss of earnings or other economic loss,
22 evidence shall be admissible for consideration by the court to establish
23 that any such past or future cost or expense was or will, with reason-
24 able certainty, be replaced or indemnified, in whole or in part, from
25 any collateral source [such as insurance (], except for life insur-
26 ance)], social security (except those benefits provided under title
27 XVIII of the social security act), workers' compensation or employee
28 benefit programs (except such collateral sources entitled by law to
29 liens against any recovery of the plaintiff)] AND THOSE PAYMENTS AS TO
30 WHICH THERE IS A STATUTORY RIGHT OF REIMBURSEMENT. If the court finds
31 that any such cost or expense was or will, with reasonable certainty, be
32 replaced or indemnified from any SUCH collateral source, it shall reduce
33 the amount of the award by such finding, minus an amount equal to the
34 premiums paid by the plaintiff for such benefits for the two-year period
35 immediately preceding the accrual of such action and minus an amount
36 equal to the projected future cost to the plaintiff of maintaining such
37 benefits. In order to find that any future cost or expense will, with
38 reasonable certainty, be replaced or indemnified by the collateral
39 source, the court must find that the plaintiff is legally entitled to
40 the continued receipt of such collateral source, pursuant to a contract
41 or otherwise enforceable agreement, subject only to the continued
42 payment of a premium and such other financial obligations as may be
43 required by such agreement. ANY COLLATERAL SOURCE DEDUCTION REQUIRED BY
44 THIS SUBDIVISION SHALL BE MADE BY THE TRIAL COURT AFTER THE RENDERING OF
45 THE JURY'S VERDICT. THE PLAINTIFF MAY PROVE HIS OR HER LOSSES AND
46 EXPENSES AT THE TRIAL IRRESPECTIVE OF WHETHER SUCH SUMS WILL LATER HAVE
47 TO BE DEDUCTED FROM THE PLAINTIFF'S RECOVERY.

48 S 3. Subdivision (d) of section 4545 of the civil practice law and
49 rules is relettered subdivision (b).

50 S 4. Subdivision (e) of rule 4111 of the civil practice law and rules
51 is REPEALED.

52 S 5. Subdivision (f) of rule 4111 of the civil practice law and rules,
53 as amended by chapter 100 of the laws of 1994, is relettered subdivision
54 (e) and amended to read as follows:

1 (e) Itemized verdict in certain actions. In an action brought to
2 recover damages for personal injury, injury to property or wrongful
3 death, which is not subject to [subdivisions] SUBDIVISION (d) [and (e)]
4 of this rule, the court shall instruct the jury that if the jury finds a
5 verdict awarding damages, it shall in its verdict specify the applicable
6 elements of special and general damages upon which the award is based
7 and the amount assigned to each element including, but not limited to,
8 medical expenses, dental expenses, loss of earnings, impairment of earn-
9 ing ability, and pain and suffering. Each element shall be further item-
10 ized into amounts intended to compensate for damages that have been
11 incurred prior to the verdict and amounts intended to compensate for
12 damages to be incurred in the future. In itemizing amounts intended to
13 compensate for future damages, the jury shall set forth the period of
14 years over which such amounts are intended to provide compensation. In
15 actions in which article fifty-A or fifty-B of this chapter applies, in
16 computing said damages, the jury shall be instructed to award the full
17 amount of future damages, as calculated, without reduction to present
18 value.

19 S 6. Subdivision (b) of section 4213 of the civil practice law and
20 rules, as separately amended by chapters 485 and 682 of the laws of
21 1986, is amended to read as follows:

22 (b) Form of decision. The decision of the court may be oral or in
23 writing and shall state the facts it deems essential. In [a medical,
24 dental or podiatric malpractice action or in an action against a public
25 employer or a public employee who is subject to indemnification by a
26 public employer with respect to such action or both, as such terms are
27 defined in subdivision (b) of section forty-five hundred forty-five, for
28 personal injury or wrongful death arising out of an injury sustained by
29 a public employee while acting within the scope of his public employment
30 or duties, and in] any [other] action brought to recover damages for
31 personal injury, injury to property, or wrongful death, a decision
32 awarding damages shall specify the applicable elements of special and
33 general damages upon which the award is based and the amount assigned to
34 each element, including but not limited to medical expenses, dental
35 expenses, podiatric expenses, loss of earnings, impairment of earning
36 ability, and pain and suffering. In a medical, dental or podiatric malp-
37 ractice action, [and in any other action brought to recover damages for
38 personal injury, injury to property, or wrongful death, each element
39 shall be further itemized into amounts intended to compensate for
40 damages which have been incurred prior to the decision and amounts
41 intended to compensate for damages to be incurred in the future. In
42 itemizing amounts intended to compensate for future damages, the court
43 shall set forth the period of years over which such amounts are intended
44 to provide compensation. In computing said damages, the court shall
45 award the full amount of future damages, as calculated, without
46 reduction to present value] COMMENCED ON OR AFTER JULY TWENTY-SIXTH, TWO
47 THOUSAND THREE, THE COURT'S DECISION AS TO FUTURE DAMAGES SHALL BE ITEM-
48 IZED IN ACCORDANCE WITH SUBDIVISION (D) OF RULE FORTY-ONE HUNDRED ELEVEN
49 OF THIS CHAPTER. IN ANY ACTION BROUGHT TO RECOVER DAMAGES FOR PERSONAL
50 INJURY, INJURY TO PROPERTY OR WRONGFUL DEATH, OTHER THAN A MEDICAL,
51 DENTAL OR PODIATRIC MALPRACTICE ACTION COMMENCED ON OR AFTER JULY TWEN-
52 TY-SIXTH, TWO THOUSAND THREE, THE COURT'S DECISION AS TO FUTURE DAMAGES
53 SHALL BE ITEMIZED IN ACCORDANCE WITH SUBDIVISION (E) OF RULE FORTY-ONE
54 HUNDRED ELEVEN OF THIS CHAPTER.

55 S 7. Section 5-101 of the general obligations law is amended by adding
56 a new subdivision 4 to read as follows:

1 4. AS USED IN SECTION 5-335 OF THIS ARTICLE, THE TERM "BENEFIT PROVID-
2 ER" MEANS ANY INSURER, HEALTH MAINTENANCE ORGANIZATION, HEALTH BENEFIT
3 PLAN, PREFERRED PROVIDER ORGANIZATION, EMPLOYEE BENEFIT PLAN OR OTHER
4 ENTITY WHICH PROVIDES FOR PAYMENT OR REIMBURSEMENT OF HEALTH CARE
5 EXPENSES, HEALTH CARE SERVICES, DISABILITY PAYMENTS, LOST WAGE PAYMENTS
6 OR ANY OTHER BENEFITS UNDER A POLICY OF INSURANCE OR CONTRACT WITH AN
7 INDIVIDUAL OR GROUP.

8 S 8. The general obligations law is amended by adding a new section
9 5-335 to read as follows:

10 S 5-335. LIMITATION OF NON-STATUTORY REIMBURSEMENT AND SUBROGATION
11 CLAIMS IN PERSONAL INJURY AND WRONGFUL DEATH ACTIONS. (A) WHEN A PLAIN-
12 TIFF SETTLES WITH ONE OR MORE DEFENDANTS IN AN ACTION FOR PERSONAL INJU-
13 RIES, MEDICAL, DENTAL, OR PODIATRIC MALPRACTICE, OR WRONGFUL DEATH, IT
14 SHALL BE CONCLUSIVELY PRESUMED THAT THE SETTLEMENT DOES NOT INCLUDE ANY
15 COMPENSATION FOR THE COST OF HEALTH CARE SERVICES, LOSS OF EARNINGS OR
16 OTHER ECONOMIC LOSS TO THE EXTENT THOSE LOSSES OR EXPENSES HAVE BEEN OR
17 ARE OBLIGATED TO BE PAID OR REIMBURSED BY A BENEFIT PROVIDER, EXCEPT FOR
18 THOSE PAYMENTS AS TO WHICH THERE IS A STATUTORY RIGHT OF REIMBURSEMENT.
19 BY ENTERING INTO ANY SUCH SETTLEMENT, A PLAINTIFF SHALL NOT BE DEEMED TO
20 HAVE TAKEN AN ACTION IN DEROGATION OF ANY NONSTATUTORY RIGHT OF ANY
21 BENEFIT PROVIDER THAT PAID OR IS OBLIGATED TO PAY THOSE LOSSES OR
22 EXPENSES; NOR SHALL A PLAINTIFF'S ENTRY INTO SUCH SETTLEMENT CONSTITUTE
23 A VIOLATION OF ANY CONTRACT BETWEEN THE PLAINTIFF AND SUCH BENEFIT
24 PROVIDER.

25 EXCEPT WHERE THERE IS A STATUTORY RIGHT OF REIMBURSEMENT, NO PARTY
26 ENTERING INTO SUCH A SETTLEMENT SHALL BE SUBJECT TO A SUBROGATION CLAIM
27 OR CLAIM FOR REIMBURSEMENT BY A BENEFIT PROVIDER AND A BENEFIT PROVIDER
28 SHALL HAVE NO LIEN OR RIGHT OF SUBROGATION OR REIMBURSEMENT AGAINST ANY
29 SUCH SETTLING PARTY, WITH RESPECT TO THOSE LOSSES OR EXPENSES THAT HAVE
30 BEEN OR ARE OBLIGATED TO BE PAID OR REIMBURSED BY SAID BENEFIT PROVIDER.

31 (B) THIS SECTION SHALL NOT APPLY TO A SUBROGATION CLAIM FOR RECOVERY
32 OF ADDITIONAL FIRST-PARTY BENEFITS PROVIDED PURSUANT TO ARTICLE
33 FIFTY-ONE OF THE INSURANCE LAW. THE TERM "ADDITIONAL FIRST-PARTY BENE-
34 FITS", AS USED IN THIS SUBDIVISION, SHALL HAVE THE SAME MEANING GIVEN IT
35 IN SECTION 65-1.3 OF TITLE 11 OF THE CODES, RULES AND REGULATIONS OF THE
36 STATE OF NEW YORK AS OF THE EFFECTIVE DATE OF THIS STATUTE.

37 S 9. This act shall take effect immediately and shall apply to all
38 actions and proceedings commenced on or after such date; provided,
39 however, that sections four through eight of this act shall also apply
40 to any action or proceeding which was commenced prior to such effective
41 date where, as of such date, either (a) a trial of the issues has not
42 yet commenced, or (b) the parties have not yet entered into a stipu-
43 lation of settlement.

44 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
45 sion, section or part of this act shall be adjudged by any court of
46 competent jurisdiction to be invalid, such judgment shall not affect,
47 impair, or invalidate the remainder thereof, but shall be confined in
48 its operation to the clause, sentence, paragraph, subdivision, section
49 or part thereof directly involved in the controversy in which such judg-
50 ment shall have been rendered. It is hereby declared to be the intent of
51 the legislature that this act would have been enacted even if such
52 invalid provisions had not been included herein.

53 S 3. This act shall take effect immediately provided, however, that
54 the applicable effective date of Parts A through F of this act shall be
55 as specifically set forth in the last section of such Parts.