

6275

2009-2010 Regular Sessions

I N S E N A T E

November 7, 2009

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

AN ACT authorizing the commissioner of taxation and finance to administer an accounts receivable discount program with respect to certain overdue tax liabilities (Part A); to amend the public authorities law, in relation to authorizing the battery park city authority to make contributions to the state treasury (Part B); to amend chapter 56 of the laws of 2009 relating to providing for the administration of certain funds and accounts related to the 2009-10 budget, in relation to authorizing the state comptroller to transfer certain monies to the general fund (Part C); to amend the civil service law and the state finance law, in relation to allowing the New York state employee health insurance plan to have the option to be self insured; and to amend the parks, recreation and historic preservation law, in relation to the health benefit plan for employees (Part D); to amend section 1 of part D3 of chapter 62 of the laws of 2003 constituting the Tobacco Settlement Financing Corporation Act, in relation to bonds of the corporation (Part E); to amend chapter 43 of the laws of 1922 relating to the development of the port of New York, in relation to authorizing a contribution to the state treasury (Part F); to amend the tax law, in relation to the hours of operation of video lottery gaming (Part G); to amend the environmental conservation law, in relation to the use of ultra low sulfur diesel fuel and best available technology by the state (Part H); to amend the state finance law, in relation to establishing the "annual spending growth cap act" (Part I); and creating a legislative commission on governmental restructuring, and providing for the repeal of such provisions upon expiration thereof (Part J)

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

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

LBD15038-02-9

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

12 PART A

13 Section 1. (a) Notwithstanding the provisions of any other law to the
14 contrary, there is hereby established an accounts receivable discount
15 program as described in this section, to be administered by the commis-
16 sioner of taxation and finance, and to be effective for the period
17 prescribed by such commissioner, for all eligible taxpayers as described
18 in this section owing any tax, fee, or surcharge imposed or formerly
19 imposed by, or authorized under, the tax law, and administered by the
20 commissioner of taxation and finance.

21 (b) For purposes of the accounts receivable discount program, an
22 eligible taxpayer is an individual, partnership, estate, trust, corpo-
23 ration, limited liability company, joint stock company, or any other
24 company, trustee, receiver, assignee, referee, society, association,
25 business or any other person as described in the tax law, who or which
26 has a tax liability with regard to one or more taxes, fees or surcharges
27 that meet the conditions described in this section. However, a taxpayer
28 who or that has been convicted of crime under the tax law or the penal
29 law, and who or that is subject to a court order to pay a tax liability
30 as a result of that conviction, is not eligible to participate in this
31 program.

32 (c) For purposes of the accounts receivable discount program, an
33 eligible tax liability is one that has become fixed and final, and for
34 which an assessment or final determination was issued on or before
35 December 31, 2006. An eligible tax liability shall not include an
36 assessment or final determination that includes any of the following:
37 (1) any fraud penalty imposed under the tax law; (2) a penalty imposed
38 under section 11 of part N of chapter 61 of the laws of 2005; (3) a
39 penalty imposed under subsection (e), (g), (p), (p-1), (r), (x), (y),
40 (z), (aa) or (bb) of section 685 of the tax law; or (4) a penalty
41 imposed under subsection (f), (k), (k-1), (l), (p), (q), (r), (s) or (t)
42 of section 1085 of the tax law.

43 (d) The amount due under the accounts receivable discount program for
44 an eligible tax liability for which an assessment or final determination
45 was issued after December 31, 2003 and on or before December 31, 2006
46 must include the underlying tax liability and fifty percent of the
47 accrued interest and penalty (including the additional rate of interest
48 prescribed under section 1145 of the tax law, referred to in this
49 section as "interest penalty"). The amount due under this program for an
50 eligible tax liability for which an assessment or final determination
51 was issued on or before December 31, 2003 must include the underlying
52 tax liability and twenty percent of the accrued interest and penalty
53 (including interest penalty).

1 (e) The commissioner of taxation and finance shall identify the
2 assessments and final determinations with tax liabilities eligible for
3 the accounts receivable discount program described in this section,
4 compute the total amount of tax, interest, and penalty due under the
5 accounts receivable discount program on each such assessment or final
6 determination, and notify eligible taxpayers of the amount due under
7 this program for each such assessment or final determination. The
8 discount of a percentage of interest and penalty described in this
9 section will not be granted to any taxpayer for any such assessment or
10 final determination unless the taxpayer pays in full the amount due
11 under this program for that assessment or final determination on or
12 before the date prescribed by the commissioner.

13 (f) Under the accounts receivable discount program, payment will be
14 made by eligible taxpayers with eligible tax liabilities in the form and
15 manner prescribed by the commissioner of taxation and finance. Upon
16 payment in full by the date prescribed by the commissioner of taxation
17 and finance of the amount due under the accounts receivable discount
18 program for an eligible tax liability, the taxpayer's liability for that
19 assessment or final determination will be deemed to be paid in full.
20 Failure to pay the full amount due under this program by the date
21 prescribed by the commissioner of taxation and finance will disqualify
22 an eligible tax liability from receiving the discount of interest and
23 penalty described in this section.

24 (g) No refund will be granted or credit allowed with respect to any
25 penalty or interest paid prior to the time the taxpayer participates in
26 the accounts receivable discount program.

27 (h) No refund will be granted or credit allowed with respect to any
28 tax liability, including any applicable interest or penalty, paid under
29 the accounts receivable discount program.

30 (i) If an eligible taxpayer has entered into an installment payment
31 agreement that applies to an eligible tax liability, the taxpayer may
32 participate in the accounts receivable discount program with respect to
33 that liability, if the taxpayer pays the amount due under the accounts
34 receivable discount program in full by the date prescribed by the
35 commissioner of taxation and finance.

36 (j) On or before March 31, 2009, the commissioner of taxation and
37 finance shall submit a report to the chairman of the assembly ways and
38 means committee, the ranking minority member of the assembly ways and
39 means committee, the chairman of the senate finance committee, the rank-
40 ing minority member of the senate finance committee and the director of
41 the division of the budget regarding the accounts receivable discount
42 program established pursuant to this act. The report shall contain the
43 following information as of the report cutoff date: (i) the number of
44 cases by tax area in which the program was available; (ii) the amount of
45 tax and interest and penalty due by tax area; (iii) the amount of penal-
46 ty and interest penalty waived in all cases by tax area; (iv) the gross
47 revenue collected under each tax and the year or other applicable period
48 for or during which the liability was incurred; (v) an estimate of the
49 amount of revenue received during the period of the accounts receivable
50 discount program provided for herein which would have otherwise been
51 received during another period; and (vi) an estimate of the net revenue
52 generated from the accounts receivable discount program.

53 S 2. This act shall take effect immediately.

1 Section 1. Subdivision 2 of section 1975 of the public authorities
2 law, as added by section 1 of part AA of chapter 59 of the laws of 2009,
3 is amended to read as follows:

4 2. Notwithstanding any provision of law to the contrary, the authority
5 is hereby authorized to contribute [twenty] TWO HUNDRED million dollars
6 to the state treasury to the credit of the general fund.

7 S 2. Subdivision 1 of section 1977-a of the public authorities law is
8 amended by adding a new paragraph (f) to read as follows:

9 (F) FINANCING TERMINATION COSTS OF INTEREST RATE EXCHANGE AGREEMENTS.
10 IN ADDITION TO THE AUTHORIZATIONS CONTAINED ELSEWHERE IN THIS SUBDIVI-
11 SION THE AUTHORITY MAY BORROW MONEY BY ISSUING BONDS OR NOTES FOR THE
12 PURPOSE OF PAYING COSTS OF TERMINATING ANY INTEREST RATE EXCHANGE AGREE-
13 MENTS ENTERED INTO BY THE AUTHORITY PLUS A PRINCIPAL AMOUNT OF BONDS OR
14 NOTES ISSUED (I) TO FUND ANY RELATED DEBT SERVICE RESERVE FUND, (II) TO
15 PROVIDE CAPITALIZED INTEREST, AND (III) TO PROVIDE FOR FEES AND OTHER
16 CHARGES AND EXPENSES INCLUDING ANY UNDERWRITERS' DISCOUNTS, RELATED TO
17 THE ISSUANCE OF SUCH BONDS OR NOTES, ALL AS DETERMINED BY THE AUTHORITY,
18 EXCLUDING BONDS AND NOTES ISSUED TO REFUND OUTSTANDING BONDS AND NOTES
19 ISSUED PURSUANT TO THIS SECTION.

20 S 3. This act shall take effect immediately.

21 PART C

22 Section 1. Section 2 of part PP of chapter 56 of the laws of 2009
23 entitled "Labor", relating to providing for the administration of
24 certain funds and accounts related to the 2009-10 budget, is amended by
25 adding a new subdivision 5 to read as follows:

26 5. \$40,000,000 FROM THE GENERAL MISCELLANEOUS SPECIAL REVENUE FUND
27 (339) DISABILITY BENEFITS FUND (B7) TO THE GENERAL FUND.

28 S 2. Section 12 of part PP of chapter 56 of the laws of 2009 relating
29 to providing for the administration of certain funds and accounts
30 related to the 2009-10 budget, is amended to read as follows:

31 S 12. Notwithstanding any law to the contrary, and in accordance with
32 section 4 of the state finance law, the comptroller is hereby authorized
33 and directed to transfer, at the request of the director of the budget,
34 up to [\$200] \$500 million from the unencumbered balance of any special
35 revenue fund or account, or combination of funds and accounts, to the
36 general fund. The amounts transferred pursuant to this authorization
37 shall be in addition to any other transfers expressly authorized in the
38 2009-10 budget. Transfers from federal funds, debt service funds, capi-
39 tal projects funds, or the community projects fund are not permitted
40 pursuant to this authorization. The director of the budget shall notify
41 both houses of the legislature in writing prior to initiating transfers
42 pursuant to this authorization.

43 S 3. Notwithstanding any provision of law to the contrary, the dormi-
44 tory authority of the state of New York is authorized and directed, upon
45 the request of the director of the budget, to transfer \$26,000,000 to
46 the general fund on or before March 31, 2010.

47 S 4. Notwithstanding any law to the contrary, the insurance department
48 shall finance the annual expenses related to its activities and oper-
49 ations through assessments upon those entities required to pay such
50 assessments pursuant to section 332 of the insurance law. For state
51 fiscal year 2009-10, the total value of the annual assessment will be
52 equal to the total value of the department's enacted appropriations. In
53 such instances where the total value of the annual industry assessment
54 exceeds actual annual expenses of the department's operations and activ-

ities, in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to \$3,025,000 from the unencumbered balance of the special revenue fund (339), insurance department account (B6) to the general fund on or before March 31, 2010.

S 5. Notwithstanding any provision of law, rule or regulation to the contrary, the New York State energy research and development authority is authorized and directed to make a contribution to the state treasury to the credit of the general fund in the amount of \$90,000,000 from proceeds collected by the authority from the auction or sale of carbon dioxide emission allowances allocated by the department of environmental conservation under the Regional Greenhouse Gas Initiative on or before March 31, 2010.

If, in any fiscal year, such moneys retained by the authority from the auction or sale of carbon dioxide emission allowances allocated by the department of environmental conservation under the Regional Greenhouse Gas Initiative are deemed insufficient by the director of the division of the budget to meet actual and anticipated disbursements, the comptroller shall at the direction of the director of the division of the budget, transfer from the general fund to the New York State energy research and development authority moneys sufficient to meet such disbursements. Such transfers shall be made only upon certification of need by the director of the division of the budget, with copies of such certification filed with the chairperson of the senate finance committee, the chairperson of the assembly ways and means committee and the state comptroller. The aggregate amount of all transfers to the New York State energy research and development authority shall not exceed \$90,000,000 in total.

S 6. Notwithstanding any other provision of the law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized to transfer upon request of the director of the budget, \$29,000,000 on or before March 31, 2010, from the city university special revenue fund (377), city university stabilization account (A1), to the general fund.

S 7. Notwithstanding any other provision of law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized to transfer upon request of the director of the budget, \$160,000,000 from the Employee Health Insurance Fund (152) to the general fund.

S 8. This act shall take effect immediately; provided that the amendments to sections 2 and 12 of part PP of chapter 56 of the laws of 2009 made by sections one and two of this act shall not affect the repeal of such sections and shall be deemed repealed therewith.

PART D

Section 1. The section heading and subdivision 1 of section 160 of the civil service law, as amended by chapter 329 of the laws of 1960, are amended to read as follows:

Regulations governing the health [insurance] BENEFIT plan; advisory committee. 1. The president, subject to the provisions of this article, is hereby empowered to establish regulations relating to:

(1) the eligibility of (a) active and (b) retired employees to participate in the health [insurance] BENEFIT plan authorized by this article,

(2) the terms and conditions of the insurance AND/OR PLAN ADMINISTRATOR contract or contracts, as applied to (a) active employees and (b) retired employees, and

(3) the purchase of such insurance AND/OR PLAN ADMINISTRATOR contract or contracts and the administration of such health [insurance] BENEFIT plan.

The president shall adopt such further regulations as may be required for the effective administration of this article, including the right to require advance payments of any portion of the amount required to be paid by any participating employer as its share in connection with the operation of the health [insurance] BENEFIT plan hereunder.

S 2. Subdivisions 1 and 3 of section 161 of the civil service law, as amended by chapter 329 of the laws of 1960, are amended to read as follows:

1. The president is hereby authorized and directed to establish a health [insurance] BENEFIT plan for state officers and employees and their dependents and officers and employees of the state colleges of agriculture, home economics, industrial labor relations and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York and their dependents which, subject to the conditions and limitations contained in this article, and in the regulations of the president, will provide for group hospitalization, surgical and medical insurance against the financial costs of hospitalization, surgery, medical treatment and care, and may include, among other things prescribed drugs, medicines, prosthetic appliances, hospital in-patient and out-patient service benefits and medical expense indemnity benefits.

3. The health [insurance] BENEFIT plan shall be designed by the president (1) to provide a reasonable relationship between the hospital, surgical and medical benefits to be included, and the expected distribution of expenses of each such type to be incurred by the covered employees and dependents, and (2) to include reasonable controls, which may include deductible and coinsurance provisions applicable to some or all of the benefits, to reduce unnecessary utilization of the various hospital, surgical and medical services to be provided and to provide reasonable assurance of stability in future years of the plan, and (3) to provide benefits on a non-discriminatory basis to the extent possible, to active members throughout the state, wherever located.

S 3. The section heading and subdivisions 1 and 2 of section 162 of the civil service law, the section heading and subdivision 2 as amended by chapter 329 of the laws of 1960 and subdivision 1 as amended by chapter 805 of the laws of 1984, are amended to read as follows:

Contract for health [insurance] BENEFITS. 1. The president is hereby authorized and directed to purchase a contract or contracts to provide the benefits under the plan of health [insurance] benefits determined upon in accordance with the provisions of this article. Such contract or contracts shall be purchased from one or more corporations licensed to transact accident and health insurance business in this state or subject to article forty-three of the insurance law. ALTERNATIVELY, THE PRESIDENT MAY PROVIDE HEALTH BENEFITS DIRECTLY TO PLAN PARTICIPANTS, IN WHICH CASE THE PRESIDENT IS HEREBY AUTHORIZED TO PURCHASE A CONTRACT OR CONTRACTS WITH ONE OR MORE FIRMS QUALIFIED TO ADMINISTER, ON NEW YORK

STATE HEALTH BENEFIT PLAN'S BEHALF, THE PLAN OF BENEFITS REQUIRED UNDER THIS ARTICLE. ANY HEALTH INSURANCE COVERAGE MANDATED BY LAW APPLICABLE TO CONTRACTS FOR HEALTH INSURANCE ENTERED INTO UNDER THIS SECTION SHALL ALSO APPLY TO THE PROVISION OF ANY BENEFITS PURSUANT TO THIS SUBDIVISION. All of the benefits to be provided under this article may be included in one or more similar contracts, or the benefits may be classified into different types with each type included under one or more similar contracts issued by the same or different companies.

2. A reasonable time before entering into any insurance contract OR CONTRACT WITH AN ADMINISTRATOR OR ADMINISTRATORS hereunder, the president shall invite proposals from such qualified insurers OR ADMINISTRATORS as in his OR HER opinion would desire to accept any part of the insurance coverage OR ADMINISTRATIVE SERVICES authorized by this article.

S 4. Subdivisions 1, 2, 5, 7 and 8 of section 163 of the civil service law, subdivisions 1 and 5 as amended by chapter 329 of the laws of 1960, subdivision 2 as amended by chapter 617 of the laws of 1967, subdivision 7 as amended by chapter 198 of the laws of 1966 and subdivision 8 as added by chapter 394 of the laws of 1984, are amended to read as follows:

1. All persons in the service of the state, whether elected, appointed or employed, who elect to participate in such health [insurance] BENEFIT plan shall be eligible to participate therein, provided, however, that the president may adopt such regulations as he OR SHE may deem appropriate excluding temporary, part time or intermittent employment.

2. The contract or contracts shall provide for health [insurance] BENEFITS for retired employees of the state and of the state colleges of agriculture, home economics, industrial labor relations and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York, and their spouses and dependent children as defined by the regulations of the president, on such terms as the president may deem appropriate, and the president may authorize the inclusion in the plan of the employees and retired employees of public authorities, public benefit corporations, school districts, special districts, district corporations, municipal corporations excluding active employees and retired employees of cities having a population of one million or more inhabitants whose compensation is or was before retirement paid out of the city treasury, or other appropriate agencies, subdivisions or quasi-public organizations of the state and their spouses and dependent children as defined by the regulations of the president. Any such corporation, district, agency or organization electing to participate in the plan shall be required to pay its proportionate share of the expenses of administration of the plan in such amounts and at such times as determined and fixed by the president. All amounts payable for such expenses of administration shall be paid to the commissioner of taxation and finance and shall be applied to the reimbursement of funds previously advanced for such purposes. Neither the state nor any other participant in the plan shall be charged with the particular experience attributable to the employees of the participant, and all dividends or retroactive rate credits shall be distributed pro-rata based upon the number of employees of such participant covered by the plan.

1 5. The chief fiscal officer of any such participating employer shall
2 be authorized to deduct from the wages or salary paid to its employees
3 who are participants in such health [insurance] BENEFIT plan the sums
4 required to be paid by them under such plan. Each such participating
5 employer is authorized to appropriate such sums as are required to be
6 paid by it as its share in connection with the operation of such plan.

7 7. For purposes of eligibility for participation in the health [insur-
8 ance] BENEFIT plan no person shall be deemed to be a state officer or
9 employee or to be in the service of the state unless his salary or
10 compensation is paid directly by the state, and no person shall be
11 deemed to be a retired officer or employee of the state unless his sala-
12 ry or compensation immediately preceding his retirement was paid direct-
13 ly by the state; provided, however, that all active and retired
14 justices, judges, officers and employees of the supreme court, surro-
15 gate's court, county court, family court, civil court of the city of New
16 York, criminal court of the city of New York and district court in any
17 county, officers and employees of the office of probation for the courts
18 of New York city shall be eligible for participation in the health
19 [insurance] BENEFIT plan whether or not their salaries are paid or
20 before retirement were paid directly by the state.

21 8. Notwithstanding any other law, rule or regulation to the contrary,
22 where the state and an employee organization representing state officers
23 and employees who are in positions which are in the collective negotiat-
24 ing unit established by chapter four hundred three of the laws of nine-
25 teen hundred eighty-three enter into a collectively negotiated agreement
26 pursuant to article fourteen of this chapter providing that officers and
27 employees who hold positions in such unit on or after April first, nine-
28 teen hundred eighty-four and who immediately upon termination from such
29 position are eligible to receive a retirement benefit from either the
30 New York state or New York city retirement systems shall continue to be
31 eligible to participate in the employee benefit fund established by
32 section two hundred six-a of the state finance law, such officers and
33 employees upon retirement shall continue to participate in and receive
34 the benefits of such fund as provided in such collectively negotiated
35 agreement and shall not be eligible to receive and shall not receive
36 from the statewide health [insurance] BENEFIT plan established pursuant
37 to this article coverage for benefits covered by such employee benefit
38 fund.

39 S 4-a. Section 163-a of the civil service law, as added by chapter 302
40 of the laws of 1985, is amended to read as follows:

41 S 163-a. Health insurance adjustment. 1. For the purposes of this
42 section, the term "supplementary plan" shall mean a health [insurance]
43 BENEFIT plan which provides an adjustment to the deductible or co-insu-
44 rance liability or to the benefits provided by the statewide health
45 [insurance] BENEFIT plan purchased pursuant to section one hundred
46 sixty-two of this article.

47 2. The president may require the insurer of a supplementary plan to
48 the statewide health [insurance] BENEFIT plan, provided as a result of a
49 collectively negotiated agreement pursuant to article fourteen of this
50 chapter, to make a comparable supplementary plan available to partic-
51 ipating employers as of the implementation date of the state employees'
52 supplementary plan. The comparable supplementary plan shall be experi-
53 ence rated as to those participating employers electing it, with the
54 costs thereof allocated equitably among them.

55 3. Every participating employer which, on or before July first, nine-
56 teen hundred eighty-five, entered into a collectively negotiated agree-

1 ment pursuant to article fourteen of this chapter with employee organ-
2 izations representing its employees to provide the statewide health
3 [insurance] BENEFIT plan shall provide such comparable supplementary
4 plan on the date established by the president until the expiration of
5 such negotiated agreement.

6 S 5. Section 165 of the civil service law, as amended by chapter 810
7 of the laws of 1964, subdivision 2 as amended by chapter 608 of the laws
8 of 1977, is amended to read as follows:

9 S 165. Termination of active employment. 1. The health [insurance]
10 BENEFIT coverage of any employee and his OR HER dependents, if any,
11 shall cease upon the discontinuance of his OR HER term of office or
12 employment, subject to regulations which may be prescribed by the presi-
13 dent for extension of coverage and for conversion to an individual
14 contract providing for such of the benefits provided under this article
15 as may be provided under such individual contracts, under terms approved
16 by the president, the total cost of any such contract to be borne by the
17 employee.

18 2. In the event of death of an employee having coverage at the time of
19 death for himself OR HERSELF and his OR HER dependents, and where the
20 circumstances of death are such that beneficiaries or dependents of such
21 deceased employee are entitled to an accidental death benefit payable by
22 a retirement system or pension plan administered by the state or a civil
23 division thereof on account of death resulting from an accident
24 sustained in the performance of his OR HER duties or to death benefits
25 provided for under the [workmen's] WORKERS' compensation law, the unre-
26 married spouse of such employee covered at the time of his OR HER death
27 and his OR HER covered dependents, for so long as they would otherwise
28 qualify as dependents eligible for coverage under the regulations of the
29 president, shall be eligible to continue full coverage under the health
30 [insurance] BENEFIT plan upon payment at intervals determined by the
31 president of the full cost of such coverage; provided, however, that the
32 state shall pay and any participating employer may elect to pay the full
33 cost of such coverage, except that in the case of those enrolled in an
34 optional benefit plan, the employer shall contribute not more than the
35 same dollar amount which would be paid if such unremarried spouse and
36 dependents were enrolled in the basic statewide health [insurance] BENE-
37 FIT plan. The president shall adopt such regulations as may be required
38 to carry out the provisions of this subdivision which shall include, but
39 need not be limited to, provisions for filing application for continued
40 coverage, including reasonable time limits therefor, and provisions for
41 continued coverage of spouse and dependents pending determination of an
42 application for accidental death benefits from a retirement system or
43 pension plan administered by the state or a civil division thereof or
44 pending determination of a claim for death benefits under the [work-
45 men's] WORKERS' compensation law.

46 S 6. Section 165-a of the civil service law, as amended by chapter 467
47 of the laws of 1991, the closing paragraph as added by chapter 105 of
48 the laws of 2005, is amended to read as follows:

49 S 165-a. Continuation of state health [insurance] BENEFIT plans for
50 survivors of employees of the state and/or of a political subdivision or
51 of a public authority. Notwithstanding any other provision of law to the
52 contrary, the president shall permit the unremarried spouse and the
53 dependents, otherwise qualified as eligible for coverage under regu-
54 lations of the president, of a person who was an employee of the state
55 and/or of a political subdivision thereof or of a public authority for
56 not less than ten years, provided however, that the ten-year service

1 requirement shall not apply to such employees on active military duty in
2 connection with the Persian Gulf conflict who die on or after August
3 second, nineteen hundred ninety while in the Persian Gulf combat zone or
4 while performing such military duties, who had been a participant in any
5 of the state health [insurance] BENEFIT plans, to continue under the
6 coverage which such deceased employee had in effect at the time of
7 death, upon the payment at intervals determined by the president of the
8 full cost of such coverage, provided, however, that the unremarried
9 spouse of an active employee of the State who died on or after April
10 first, nineteen hundred seventy-five and before April first, nineteen
11 hundred seventy-nine who timely elected to continue dependent coverage,
12 or such unremarried spouse who timely elected individual coverage shall
13 continue to pay at intervals determined by the president one-quarter of
14 the full cost of dependent coverage and provided further, that, with
15 regard to employees of the State, where and to the extent that an agree-
16 ment pursuant to article fourteen of this chapter so provides, or where
17 the director of employee relations, with respect to employees of the
18 State who are not included within a negotiating unit so recognized or
19 certified pursuant to article fourteen of this chapter whom the director
20 of employee relations determines should be declared eligible for the
21 continuation of health [insurance] BENEFIT plans for the survivors of
22 such employees of the State, the president shall adopt regulations
23 providing for the continuation of such health [insurance] BENEFIT OR
24 BENEFITS by the unremarried spouse of an active employee of the State
25 who died on or after April first, nineteen hundred seventy-nine who
26 elects to continue dependent coverage, or such unremarried spouse who
27 elects individual coverage, and upon such election shall pay at inter-
28 vals determined by the president one-quarter of the full cost of depend-
29 ent coverage and, provided further with respect to enrolled employees of
30 a political subdivision or public authority in a negotiating unit recog-
31 nized or certified pursuant to article fourteen of this chapter, where
32 an agreement negotiated pursuant to said article so provides, and with
33 respect to enrolled employees of a political subdivision or public
34 authority not included within a negotiating unit so recognized or certi-
35 fied, at the discretion of the appropriate political subdivision or
36 public authority, the unremarried spouse of an active employee of the
37 political subdivision or of the public authority who died on or after
38 April first, nineteen hundred seventy-five, may elect to continue
39 dependent coverage or such unremarried spouse may elect individual
40 coverage and upon such election shall pay at intervals determined by the
41 president one-quarter of the full cost of dependent coverage.

42 The president shall adopt such regulations as may be required to carry
43 out the provisions of this subdivision which shall include, but need not
44 be limited to, provisions for filing application for continued coverage.

45 Notwithstanding any law to the contrary, the survivors of any employee
46 subject to this section shall be entitled to the health [insurance]
47 benefits granted pursuant to this section, provided that such employee
48 died while on active duty other than for training purposes, pursuant to
49 Title 10 of the United States Code, with the armed forces of the United
50 States, and such member died on such active duty on or after the effec-
51 tive date of [the] chapter ONE HUNDRED FIVE of the laws of two thousand
52 five [which added this paragraph] as a result of injuries, disease or
53 other medical condition sustained or contracted in such active duty with
54 the armed forces of the United States.

55 S 7. Paragraph (a) of subdivision 1 and subdivisions 2, 4 and 5 of
56 section 167 of the civil service law, paragraph (a) of subdivision 1 as

1 amended by chapter 582 of the laws of 1988, subdivision 2 as amended by
2 chapter 534 of the laws of 1998, subdivision 4 as amended by chapter 407
3 of the laws of 1970 and subdivision 5 as amended by chapter 617 of the
4 laws of 1967, are amended to read as follows:

5 (a) The full cost of premium or subscription charges for the coverage
6 of retired state employees who are enrolled in the statewide and the
7 supplementary health [insurance] BENEFIT plans established pursuant to
8 this article and who retired prior to January first, nineteen hundred
9 eighty-three shall be paid by the state. Nine-tenths of the cost of
10 premium or subscription charges for the coverage of state employees and
11 retired state employees retiring on or after January first, nineteen
12 hundred eighty-three who are enrolled in the statewide and supplementary
13 health [insurance] BENEFIT plans shall be paid by the state. Three-
14 quarters of the cost of premium or subscription charges for the coverage
15 of dependents of such state employees and retired state employees shall
16 be paid by the state. Except as provided in paragraph (b) of this subdivi-
17 sion, the state shall contribute toward the premium or subscription
18 charges for the coverage of each state employee or retired state employ-
19 ee who is enrolled in an optional benefit plan and for the dependents of
20 such state employee or retired state employee the same dollar amount
21 which would be paid by the state for the premium or subscription charges
22 for the coverage of such state employee or retired state employee and
23 his or her dependents if he or she were enrolled in the statewide and
24 the supplementary health [insurance] BENEFIT plans, but not in excess of
25 the premium or subscription charges for the coverage of such state
26 employee or retired state employee and his or her dependents under such
27 optional benefit plan. For purposes of this subdivision, employees of
28 the state colleges of agriculture, home economics, industrial labor
29 relations, and veterinary medicine, the state agricultural experiment
30 station at Geneva, and any other institution or agency under the manage-
31 ment and control of Cornell university as the representative of the
32 board of trustees of the state university of New York, and employees of
33 the state college of ceramics under the management and control of Alfred
34 university as the representative of the board of trustees of the state
35 university of New York, shall be deemed to be state employees whose
36 salaries or compensation are paid directly by the state.

37 2. Each participating employer shall be required to pay not less than
38 fifty percentum of the cost of premium or subscription charges for the
39 coverage of its employees and retired employees who are enrolled in the
40 statewide only or the statewide and comparable supplementary health
41 [insurance] BENEFIT plans established pursuant to this article. Such
42 employer shall be required to pay not less than thirty-five percentum of
43 the cost of premium or subscription charges for the coverage of depen-
44 dents of such employees and retired employees. Such employer shall
45 contribute toward the premium or subscription charges for the coverage
46 of each employee or retired employee who is enrolled in an optional
47 benefit plan and for the dependents of such employee or retired employee
48 the same dollar amount which would be paid by such employer for the
49 premium or subscription charges for the coverage of such employee or
50 retired employee and his or her dependents if he or she were enrolled in
51 the statewide health [insurance] BENEFIT plan, but not in excess of the
52 premium or subscription charges for the coverage of such employee or
53 retired employee and his or her dependents under such optional benefit
54 plan. Such employer shall not be required to pay the cost of premium or
55 subscription charges for the coverage of unpaid elected officials, or
56 unpaid board members of a public authority, or their dependents,

1 provided, however that no unpaid board member of a public authority
2 shall be eligible to participate in such [insurance] BENEFIT plan until
3 he or she has served in such position for at least six months. Subject
4 to such regulations as the president may prescribe, any participating
5 employer may elect to pay higher rates of contribution for the coverage
6 of employees, retired employees and their dependents; provided, however,
7 that if a participating employer elects to pay a higher or lower rate of
8 contribution for its retired employees or their dependents, or both,
9 than that paid by the state for its retired employees or their depen-
10 dents, or both, amounts withheld from the retirement allowances of such
11 retired employees for their share of premium or subscription charges, if
12 any, shall, if the president so requires, be paid to such participating
13 employer which shall pay into the health insurance fund the full cost of
14 premium or subscription charges for the coverage of such retired employ-
15 ees and their dependents. Such election shall be exercised by the
16 adoption of a resolution by its governing body which, if required by law
17 to be approved by any other body or officer, shall have been so
18 approved.

19 4. Upon the retirement, on or after July first, nineteen hundred
20 sixty-five, of a state employee whose salary or compensation is paid
21 directly by the state, who is subject to a plan established by law,
22 rule, regulation, written order or written policy which provides for the
23 regular earning and accumulation of sick leave, and who is eligible to
24 continue coverage under the health [insurance] BENEFIT plan after
25 retirement, the department [of civil service] shall determine, based on
26 the employee's age at the time of retirement, the actuarial equivalent
27 in monthly installments for the remaining life expectancy of such
28 retired employee, of the dollar value of the earned and accumulated but
29 unused sick leave standing to his OR HER credit at the time of retire-
30 ment, without interest. Such dollar value shall be based on the employ-
31 ee's salary at the time of retirement. In addition to regular employer
32 contributions, contributions in the amount of such monthly installments
33 shall be paid from the state's appropriation to the health insurance
34 fund and applied towards the charges for health [insurance] BENEFITS on
35 account of such retired employee and his OR HER dependents, to the
36 extent necessary to pay such charges. The remaining amount, if any,
37 necessary to pay such charges shall be contributed by such retired
38 employee. On or after October first, nineteen hundred seventy when such
39 dollar value of such sick leave amounts to less than one hundred dollars
40 for a particular retired employee, in lieu of contributions which would
41 otherwise be required from such retired employee, additional contrib-
42 utions shall be paid for the state's appropriation to the health insur-
43 ance fund and applied towards the charges for health [insurance] BENE-
44 FITS on account of such retired employee and his OR HER dependents until
45 the sum of such additional contributions equals such dollar value of
46 such sick leave. The remaining amount, if any, necessary to pay such
47 charges shall be contributed by such retired employee. For purposes of
48 this subdivision, employees of the state colleges of agriculture, home
49 economics, industrial labor relations, and veterinary medicine, the
50 state agricultural experiment station at Geneva, and any other institu-
51 tion or agency under the management and control of Cornell university as
52 the representative of the board of trustees of the state university of
53 New York, and employees of the state college of ceramics under the
54 management and control of Alfred university as the representative of the
55 board of trustees of the state university of New York, shall be deemed

1 to be state employees whose salaries or compensation is paid directly by
2 the state.

3 5. Subject to such regulations as the president may prescribe, any
4 participating employer may elect to make additional contributions
5 towards charges for health [insurance] BENEFIT coverage on account of
6 its retired employees and their dependents, based on the dollar value of
7 their sick leave accumulated but unused at the time of retirement. Such
8 election shall apply to employees in the service of the participating
9 employer who retire on or after the effective date of such election, who
10 are subject to a plan established by law, rule, regulation, written
11 order or written policy which provides for the regular earning and accu-
12 mulation of sick leave, and who are eligible to continue coverage under
13 the health [insurance] BENEFIT plan after retirement. The participating
14 employer shall certify to the department [of civil service] the dollar
15 value of earned and accumulated but unused sick leave standing to the
16 credit of an employee at the time of his OR HER retirement. Additional
17 contributions shall be paid by such participating employer and applied
18 towards charges for health [insurance] BENEFITS on account of its
19 retired employees and their dependents in the same manner as provided in
20 subdivision four of this section with respect to retired state employees
21 and their dependents.

22 S 8. Section 167-a of the civil service law, as added by chapter 602
23 of the laws of 1966, is amended to read as follows:

24 S 167-a. Reimbursement for medicare premium charges. Upon exclusion
25 from the coverage of the health [insurance] BENEFIT plan of supplementa-
26 ry medical insurance benefits for which an active or retired employee or
27 a dependent covered by the health [insurance] BENEFIT plan is or would
28 be eligible under the federal old-age, survivors and disability insur-
29 ance program, an amount equal to the premium charge for such supplemen-
30 tary medical insurance benefits for such active or retired employee and
31 his OR HER dependents, if any, shall be paid monthly or at other inter-
32 vals to such active or retired employee from the health insurance fund.
33 Where appropriate, such amount may be deducted from contributions paya-
34 ble by the employee or retired employee; or where appropriate in the
35 case of a retired employee receiving a retirement allowance, such amount
36 may be included with payments of his OR HER retirement allowance.
37 Employer contributions to the health insurance fund shall be adjusted as
38 necessary to provide for such payments.

39 S 9. Section 168 of the civil service law, as amended by chapter 329
40 of the laws of 1960, subdivisions 1 and 2 as amended by chapter 585 of
41 the laws of 1968 and subdivision 3 as amended by chapter 198 of the laws
42 of 1966, is amended to read as follows:

43 S 168. Assessment of certain costs. 1. If the salary or compensation
44 of any officers and employees of the state is paid from a special or
45 administrative fund or funds, other than the state purposes fund or the
46 local assistance fund of the general fund of the state or the capital
47 construction fund or an income fund of the state university or the
48 mental hygiene services fund, such fund or funds shall be charged, and
49 there shall be paid therefrom as [hereinafter] provided IN THIS SECTION
50 the employer's share of the premium for the coverage of such officers
51 and employees under the health [insurance] BENEFIT plan. If the amounts
52 appropriated or allocable from such special or administrative fund or
53 funds are insufficient for such purpose, the director of the budget is
54 hereby authorized to allocate such additional sums from such fund or
55 funds as may be necessary therefor; provided, however, that no transfer
56 shall be made between two or more of such funds. Such amounts shall be

1 paid, at such times as shall be required by the president, to the
2 commissioner of taxation and finance and shall be credited to the health
3 insurance fund to pay, or reimburse the health insurance fund for the
4 payment of, the employer's share of the premium for coverage of such
5 officers and employees under the health [insurance] BENEFIT plan.

6 2. If the salary or compensation of any officers and employees of the
7 state is payable from a special or administrative fund or funds, other
8 than the state purposes fund or the local assistance fund of the general
9 fund of the state or the capital construction fund or an income fund of
10 the state university or the mental hygiene services fund, a propor-
11 tionate share of the expenses of administration of the health [insur-
12 ance] BENEFIT plan, on account of coverage of such officers and employ-
13 ees, shall be payable from such fund or funds. If the amounts
14 appropriated or allocable from such special or administrative fund or
15 funds are insufficient for such purpose, the director of the budget is
16 hereby authorized to allocate such additional sums from such [funds]
17 FUND or funds as may be necessary therefor; provided, however, that no
18 transfer shall be made between two or more of such funds. The propor-
19 tionate share of the expenses of administration of the health [insur-
20 ance] BENEFIT plan chargeable pursuant to this subdivision to any
21 special or administrative fund shall be determined by the president and
22 shall be payable at such times as may be fixed by him OR HER. Such sums
23 shall be payable to the commissioner of taxation and finance and shall
24 be applied to the reimbursement of funds previously advanced for the
25 expenses of administration of the health [insurance] BENEFIT plan.

26 3. (a) If the salary or compensation of any justices, judges, officers
27 and employees of the supreme court, surrogate's court, county court,
28 family court, civil court of the city of New York, criminal court of the
29 city of New York and district court in any county, officers and employ-
30 ees of the office of probation for the courts of New York city is not
31 paid in whole or in part from the treasury of the state, but is paid
32 directly from the treasury of a civil division, such civil division
33 shall be required to pay the employer's share of the premium charges for
34 the coverage of such justices, judges, officers and employees under the
35 state health [insurance] BENEFIT plan. The appropriate fiscal officer of
36 such civil division shall deduct from the salary or wages paid to such
37 justices, judges, officers and employees the sums required to be paid by
38 them under such plan. Such deductions and the corresponding employer's
39 share of premium charges shall be paid, at such times as required by the
40 president, to the commissioner of taxation and finance and shall be
41 credited to the health insurance fund.

42 (b) If the salary or compensation of any retired justices, judges,
43 officers and employees of the supreme court, surrogate's court, county
44 court, family court, civil court of the city of New York, criminal court
45 of the city of New York and district court in any county, officers and
46 employees of the office of probation for the courts of New York city
47 prior to retirement was not paid in whole or in part from the treasury
48 of the state but was paid directly from the treasury of a civil divi-
49 sion, such civil division shall be required to pay the employer's share
50 of the premium charges for the coverage of such retired justices, judg-
51 es, officers and employees under the state health [insurance] BENEFIT
52 plan. If such retired justices, judges, officers and employees are
53 receiving retirement allowances from a pension or retirement plan or
54 system administered by such civil division, the amounts required to be
55 paid by such retired justices, judges, officers and employees as their
56 share of premium charges shall be deducted from their retirement allow-

ances. Such deductions and the employer's share of premium charges shall be paid, at such times as required by the president, to the commissioner of taxation and finance and shall be credited to the health insurance fund.

(c) Any civil division required by this subdivision to pay the employer's share of the premium charges for the coverage of active or retired justices, judges, officers and employees of the supreme court, surrogate's court, county court, family court, civil court of the city of New York, criminal court of the city of New York and district court in any county, officers and employees of the office of probation for the courts of New York city shall also be assessed and required to pay a proportionate share of the expenses of administration of the health [insurance] BENEFIT plan in such amounts and at such times as determined by the president. Such sums shall be payable to the commissioner of taxation and finance and shall be applied to the reimbursement of funds previously advanced for the expenses of administration of the health [insurance] BENEFIT plan.

S 10. Subdivisions 1 and 3 of section 161-a of the civil service law, subdivision 1 as amended by chapter 302 of the laws of 1985 and subdivision 3 as added by chapter 307 of the laws of 1979, are amended to read as follows:

1. Where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter provides for health [insurance] benefits, the president, after receipt of written directions from the director of employee relations, shall implement the provisions of such agreement consistent with the terms thereof and to the extent necessary shall adopt regulations providing for the benefits to be thereunder provided. The president, with the approval of the director of the budget, may extend such benefits, in whole or in part, to employees not subject to the provisions of such agreement.

3. There is hereby created a council on employee health insurance to supervise the administration of changes to the health [insurance] BENEFIT plan negotiated in collective negotiations and to provide continuing policy direction to insurance plans administered by the state the provisions of any other law to the contrary notwithstanding. The council shall consist of the president [of the civil service commission], the director of the division of the budget, and the director of employee relations.

S 11. Paragraph (a) of subdivision 1 of section 11 of the civil service law, as amended by chapter 299 of the laws of 1968, is amended to read as follows:

(a) The term "expenses of administration" means the total cost of administration of the department [of civil service], excluding costs of providing services to municipalities and costs of administration of the health [insurance] BENEFIT plan, and excluding costs of special programs or activities of the department as may be determined by the president, subject to approval of the director of the budget, which do not serve generally all state departments and agencies under the jurisdiction of the department;

S 12. Section 158 of the civil service law, as added by chapter 1047 of the laws of 1973, subdivision 1 as amended by section 4 of part C of chapter 56 of the laws of 2006, is amended to read as follows:

S 158. Group term life insurance plan and group accident and health [insurance] BENEFIT plan. 1. The president, subject to the provisions of this section, is hereby empowered to establish regulations relating to,

1 and to enter into and administer contracts providing for, a group term
2 life insurance plan, and a group accident and health [insurance] BENEFIT
3 plan on behalf of legislators, employees of the legislature hired on an
4 annual basis, judges and justices of the unified court system, and state
5 employees and retired employees who, for the purposes of article four-
6 teen of this chapter, have been for a period of time prescribed by the
7 regulations and, except for such retirees, continue to be in positions
8 designated as managerial or confidential positions. The president may
9 authorize the inclusion in the plan of such employees and retired
10 employees of other governments or public employers as defined in subdi-
11 vision [seven] SIX of section two hundred one of this chapter. The pres-
12 ident may adopt whatever other regulations which may be necessary to
13 fulfill the intentions of this section. No regulation shall be adopted,
14 repealed or amended, and no other action taken with respect to such
15 employees affecting the amount of, or eligibility for, benefits or rates
16 of contribution under this section without the approval of the director
17 of employee relations.

18 The full costs of any insurance program or programs established pursu-
19 ant to this subdivision, excluding administrative costs, shall be borne
20 by insureds and retirees. Any interest earned by the moneys in the life
21 insurance fund shall be added to such fund, become a part of such fund,
22 be used for the purpose of such fund, and be available without fiscal
23 year limitation.

24 2. The regulations of the president authorized by this section shall
25 provide that the entire cost of premiums or subscription charges for
26 coverage under the insurance plans established pursuant to such regu-
27 lations shall be borne by the employees electing such coverage. Such
28 regulations may provide for the allocation of any administrative
29 expenses, other than those of the insurer, among employers or employees
30 or retired employees participating in such coverage.

31 S 13. Subdivision 1 of section 174 of the civil service law, as added
32 by chapter 585 of the laws of 1998, is amended to read as follows:

33 1. All persons who, as of the effective date of this article, are or
34 shall become eligible to participate in the state health [insurance]
35 BENEFIT plan established under article eleven of this chapter, shall be
36 eligible to participate in the long term care insurance plan established
37 under this article. The president shall adopt regulations prescribing
38 the conditions under which an eligible individual may elect to partic-
39 ipate in the long term care insurance plan.

40 S 14. The article heading of article 11 of the civil service law, as
41 added by chapter 461 of the laws of 1956 and as renumbered by chapter
42 790 of the laws of 1958, is amended to read as follows:

43 HEALTH [INSURANCE] BENEFITS FOR STATE AND RETIRED STATE EMPLOYEES

44 S 15. Subparagraph (i) of paragraph f of subdivision 2 of section 5 of
45 the state finance law, as added by section 1 of part E of chapter 56 of
46 the laws of 2000, is amended to read as follows:

47 (i) in the unclassified service of the state and, notwithstanding any
48 other provision of law to the contrary, shall be designated managerial
49 and, as such, eligible for benefits provided by subdivision two of
50 section eleven and subdivision (a) of section twelve of chapter four
51 hundred sixty of the laws of nineteen hundred eighty-two, as amended;
52 section one hundred fifty-eight of the civil service law; eligible to
53 participate in the state deferred compensation plan, the New York state
54 and local employees' retirement system; the health [insurance] BENEFIT
55 plan for state employees; and subject to coverage under sections seven-
56 teen and eighteen of the public officers law, or

1 S 16. Subdivisions 1 and 3 of section 99-c of the state finance law,
2 as added by chapter 55 of the laws of 1977, are amended to read as
3 follows:

4 1. In the event a county, city, town, village or school district which
5 has elected to receive distribution or distributions from the health
6 insurance reserve receipts fund, pursuant to an agreement between such
7 municipality or school district and the state and which has elected to
8 terminate its contractual agreement for health [insurance] BENEFITS with
9 the New York state department of civil service, or if called upon by the
10 New York state department of civil service, pursuant to such agreement,
11 to return such distribution within the time period and under the condi-
12 tions specified in such agreement, shall be in default of its obligation
13 to repay such distribution, the allotment, apportionment, and payment of
14 local assistance aid, education aid or other state aid as appropriate
15 and as determined by the comptroller shall be withheld by the state upon
16 the following terms and conditions.

17 3. Notwithstanding any inconsistent provisions of law, the comptroller
18 shall establish a fund, to be called the health insurance reserve
19 receipts fund, to receive transfers of funds from the health insurance
20 carriers of the New York state employee health [insurance] BENEFIT plan,
21 pursuant to contractual agreements between such carriers and the New
22 York state department of civil service and/or from the health insurance
23 fund. Moneys returned by the municipalities and school districts or
24 withheld from state aid by the comptroller pursuant to provisions
25 governing termination of the contractual agreements shall be deposited
26 in this fund. Disbursements from the health insurance reserve receipts
27 fund shall be for the purpose of returning to participating governments
28 and school districts the appropriate share of moneys remitted by such
29 health insurance carriers and/or for the purpose of remitting to the
30 carriers any moneys due them as a result of termination of the state's
31 contract with the carriers or termination of agreements between the
32 state and municipalities and school districts and/or for the purpose of
33 transferring funds to the health insurance fund. Disbursements from such
34 fund shall be made pursuant to the procedures for authorization of
35 expenditures contained in article [XI] ELEVEN of the civil service law
36 upon the issuance of a certificate of approval of availability by the
37 director of the budget and subject to audit and warrant of the comp-
38 troller.

39 S 17. Subdivision 2 of section 9.09 of the parks, recreation and
40 historic preservation law is amended to read as follows:

41 2. For the purposes of eligibility for participation in the state
42 health [insurance] BENEFIT plan under article eleven of the civil
43 service law and for survivor's benefits for active and retired state
44 employees [as provided by sections one hundred fifty-four and one
45 hundred fifty-five of the civil service law], employees of the commis-
46 sion, to the extent to which the compensation paid for their services is
47 derived from funds appropriated by this state, shall be deemed to be
48 employees of this state and qualified for such participation and bene-
49 fits. For the purpose of determining their rights under the [workmen's]
50 WORKERS' compensation law of this state, employees of the commission
51 employed wholly or partly in this state shall be deemed to be employees
52 of this state provided, however, that the amount of any payment made
53 under such compensation law to an employee of the commission employed
54 only partly in this state shall be only in such proportion as the amount
55 of his OR HER salary paid by the state of New York shall bear to his OR
56 HER total salary.

S 18. This act shall take effect immediately.

PART E

Section 1. Paragraph (i) of subdivision 1 of section 6 of section 1 of part D3 of chapter 62 of the laws of 2003 constituting the tobacco settlement financing corporation act is amended to read as follows:

(i) The corporation shall have power and is hereby authorized from time to time to issue its bonds in an aggregate principal amount not exceeding four billion, [two] NINE hundred million dollars [(\$4,200,000,000)] (\$4,900,000,000) plus the amount of any financing costs, to provide sufficient funds for achieving its corporate purpose, consisting of the purchase of all or a portion of the state's share pursuant to section four of this act and the payment or provision for financing costs. The foregoing limitation shall not apply to bonds issued to refund bonds. Provided, however, that no bonds may be issued pursuant to the authority and power granted by this section, except an issue of bonds in an amount not to exceed seven hundred million dollars (\$700,000,000) plus the amount of any applicable financing costs, until the state comptroller shall determine that legislative passage of the budget has occurred for the current state fiscal year in accordance with the provisions of subdivision 3 of section 5 of the legislative law. Provided, further, no bonds, other than refunding bonds, shall be issued pursuant to such authority and power on or after [July 1, 2004] APRIL 1, 2011.

S 2. This act shall take effect immediately.

PART F

Section 1. Chapter 43 of the laws of 1922 relating to the development of the port of New York is amended by adding a new section 18 to read as follows:

S 18. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE PORT AUTHORITY IS HEREBY AUTHORIZED TO CONTRIBUTE TWO HUNDRED MILLION DOLLARS TO THE STATE TREASURY TO THE CREDIT OF THE GENERAL FUND.

S 2. This act shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect; but if the state of New Jersey shall have already enacted such legislation, then this act shall take effect immediately and provided that the state of New Jersey shall notify the legislative bill drafting the commission upon the occurrence of the enactment of the provisions provided for in this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART G

Section 1. Subdivision b of section 1617-a of the tax law, as amended by section 2 of part Z3 of chapter 62 of the laws of 2003, is amended to read as follows:

b. [Video] THE HOURS OF OPERATION OF VIDEO lottery gaming shall only be permitted [for no more than sixteen consecutive hours per day and on no day shall such operation be conducted past 2:00 a.m] AS PRESCRIBED BY THE DIVISION OF THE LOTTERY.

1 S 2. This act shall take effect immediately; provided that the amend-
2 ments to subdivision b of section 1617-a of the tax law made by section
3 one of this act shall not affect the repeal of such section and shall be
4 deemed repealed therewith.

5 PART H

6 Section 1. Section 19-0323 of the environmental conservation law, as
7 added by chapter 629 of the laws of 2006, is amended to read as follows:
8 S 19-0323. Use of ultra low sulfur diesel fuel and best available tech-
9 nology by the state.

10 1. As used in this section, the terms:

11 a. "Ultra low sulfur diesel fuel" means diesel fuel having sulfur
12 content of 0.0015 per cent of sulfur or less.

13 b. "Heavy duty vehicle" or "vehicle" means any on and off-road vehicle
14 powered by diesel fuel and having a gross vehicle weight of greater than
15 8,500 pounds, except that those vehicles defined in section 101 of the
16 vehicle and traffic law, paragraph 2 of schedule E and paragraph (a) of
17 schedule F of subdivision 7 of section 401 of such law, and vehicles
18 specified in subdivision 13 of section 401 of such law, and farm type
19 tractors and all terrain type vehicles used exclusively for agricultural
20 or mowing purposes, or for snow plowing, other than for hire, farm
21 equipment, including self-propelled machines used exclusively in grow-
22 ing, harvesting or handling farm produce, and self-propelled caterpillar
23 or crawler-type equipment while being operated on the contract site, and
24 timber harvesting equipment such as harvesters, wood chippers, forward-
25 ers, log skidders, and other processing equipment used exclusively off
26 highway for timber harvesting and logging purposes, shall not be deemed
27 heavy duty vehicles for purposes of this section. This term shall not
28 include vehicles that are specially equipped for emergency response by
29 the department, office of emergency management, sheriff's office of the
30 department of finance, police department or fire department.

31 c. "Best available retrofit technology" means technology, verified by
32 the United States environmental protection agency for reducing the emis-
33 sion of pollutants that achieves reductions in particulate matter emis-
34 sions at the highest classification level for diesel emission control
35 strategies that is applicable to the particular engine and application.
36 Such technology shall also, at a reasonable cost, achieve the greatest
37 reduction in emissions of nitrogen oxides at such particulate matter
38 reduction level and shall in no event result in a net increase in the
39 emissions of either particulate matter or nitrogen oxides.

40 d. "Reasonable cost" means that such technology does not cost greater
41 than 30 percent more than other technology applicable to the particular
42 engine and application that falls within the same classification level
43 for diesel emission control strategies, as set forth in paragraph c of
44 this subdivision, when considering the cost of the strategies, them-
45 selves, and the cost of installation.

46 E. "USEFUL LIFE" MEANS THE PERIOD OF PROBABLE USEFULNESS FOR WHICH
47 INDEBTEDNESS WAS INCURRED FOR A VEHICLE AS ESTABLISHED IN APPLICABLE
48 STATE FINANCE LAW OR LOCAL FINANCE LAW, REFLECTED IN THE PERIOD FOR
49 WHICH INDEBTEDNESS WAS INCURRED BY THE OWNER OF THE VEHICLE.

50 2. Any diesel powered heavy duty vehicle that is owned by, operated by
51 or on behalf of, or leased by a state agency and state and regional
52 public authority shall be powered by ultra low sulfur diesel fuel.

53 3. Any diesel powered heavy duty vehicle that is owned by, operated by
54 or on behalf of, or leased by a state agency and state and regional

1 public authority with more than half of its governing body appointed by
2 the governor shall utilize the best available retrofit technology for
3 reducing the emission of pollutants. The commissioner shall promulgate
4 regulations for the implementation of this subdivision specifying proce-
5 dures for compliance according to the following schedule:

6 a. Not less than 33% of the vehicles covered by this subdivision shall
7 have best available retrofit technology on or before December 31, 2008.

8 b. Not less than 66% of the vehicles covered by this subdivision shall
9 have best available retrofit technology on or before December 31, 2009;
10 PROVIDED THAT SUCH VEHICLES ARE NOT WITHIN THREE YEARS OF THE END OF
11 THEIR USEFUL LIFE AND SHALL CEASE TO BE OPERATED UPON THE END OF SUCH
12 USEFUL LIFE.

13 c. [All] THE REMAINDER OF vehicles covered by this subdivision shall
14 have best available retrofit technology on or before December 31, 2010;
15 PROVIDED THAT SUCH VEHICLES ARE NOT WITHIN THREE YEARS OF THE END OF
16 THEIR USEFUL LIFE AND SHALL CEASE TO BE OPERATED UPON THE END OF SUCH
17 USEFUL LIFE. PROVIDED FURTHER THAT ALL VEHICLES COVERED BY THIS SUBDIVI-
18 SION SHALL HAVE BEST AVAILABLE RETROFIT TECHNOLOGY ON OR BEFORE DECEMBER
19 31, 2012.

20 This subdivision shall not apply to any vehicle subject to a lease or
21 public works contract entered into or renewed prior to the effective
22 date of this section.

23 4. In addition to other provisions for regulations in this section,
24 the commissioner shall promulgate regulations as necessary and appropri-
25 ate to carry out the provisions of this act including but not limited to
26 provision for waivers upon written finding by the commissioner that (a)
27 best available retrofit technology for reducing the emissions of pollu-
28 tants as required by subdivision 3 of this section is not available for
29 a particular vehicle or class of vehicles and (b) that ultra low sulfur
30 diesel fuel is not available.

31 5. This section shall not apply where federal law or funding precludes
32 the state from imposing the requirements of this section.

33 6. On or before January 1, 2008 and every year thereafter, the commis-
34 sioner shall report to the governor and legislature on the use of ultra
35 low sulfur diesel fuel and the use of the best available retrofit tech-
36 nology as required under this section. The information contained in this
37 report shall include, but not be limited to, for each state agency and
38 public authority covered by this section: (a) the total number of diesel
39 fuel-powered motor vehicles owned or operated by such agency and author-
40 ity; (b) the number of such motor vehicles that were powered by ultra
41 low sulfur diesel fuel; (c) the total number of diesel fuel-powered
42 motor vehicles owned or operated by such agency and authority having a
43 gross vehicle weight rating of more than 8,500 pounds; (d) the number of
44 such motor vehicles that utilized the best available retrofit technolo-
45 gy, including a breakdown by motor vehicle model, engine year and the
46 type of technology used for each vehicle; (e) the number of such motor
47 vehicles that are equipped with an engine certified to the applicable
48 2007 United States environmental protection agency standard for particu-
49 late matter as set forth in section 86.007-11 of title 40 of the code of
50 federal regulations or to any subsequent United States environmental
51 protection agency standard for particulate matter that is at least as
52 stringent; and (f) all waivers, findings, and renewals of such findings,
53 which, for each waiver, shall include, but not be limited to, the quan-
54 tity of diesel fuel needed to power diesel fuel-powered motor vehicles
55 owned or operated by such agency and authority; specific information
56 concerning the availability of ultra low sulfur diesel fuel.

1 7. The department shall, to the extent practicable, coordinate with
2 regions which have proposed or adopted heavy duty emission inspection
3 programs to promote regional consistency in such programs.
4 S 2. This act shall take effect immediately.

5 PART I

6 Section 1. This act shall be known and may be cited as the "annual
7 spending growth cap act".

8 S 2. The state finance law is amended by adding a new article 17 to
9 read as follows:

10 ARTICLE 17

11 ANNUAL SPENDING GROWTH CAP ACT

12 SECTION 250. DEFINITIONS.

13 251. ESTABLISHMENT OF ANNUAL SPENDING GROWTH CAP.

14 252. PROVISIONS REGARDING DECLARATION OF EMERGENCY.

15 S 250. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL
16 HAVE THE FOLLOWING MEANINGS, UNLESS OTHERWISE SPECIFIED:

17 1. "ANNUAL SPENDING GROWTH CAP" SHALL MEAN A PERCENTAGE DETERMINED BY
18 ADDING THE INFLATION RATES FROM EACH OF THE FOUR CALENDAR YEARS IMME-
19 DIATELY PRIOR TO THE COMMENCEMENT OF A GIVEN FISCAL YEAR AND THEN DIVID-
20 ING THAT SUM BY FOUR.

21 2. "STATE OPERATING FUNDS SPENDING" SHALL MEAN ANNUAL DISBURSEMENTS OF
22 ALL GOVERNMENTAL FUND TYPES INCLUDED IN THE CASH-BASIS FINANCIAL PLAN OF
23 THE STATE, EXCLUDING DISBURSEMENTS FROM FEDERAL FUNDS AND CAPITAL
24 PROJECT FUNDS.

25 3. "INFLATION RATE" SHALL MEAN THE PERCENTAGE CHANGE IN THE TWELVE
26 MONTH AVERAGE OF THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS AS
27 PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR
28 STATISTICS OR ANY SUCCESSOR AGENCY FOR A GIVEN CALENDAR YEAR COMPARED TO
29 THE PRIOR CALENDAR YEAR.

30 4. "EXECUTIVE BUDGET" SHALL MEAN THE BUDGET SUBMITTED ANNUALLY BY THE
31 GOVERNOR PURSUANT TO SECTION ONE OF ARTICLE VII OF THE STATE CONSTITU-
32 TION.

33 5. "STATE BUDGET AS ENACTED" SHALL MEAN THE BUDGET ACTED UPON BY THE
34 LEGISLATURE IN A GIVEN FISCAL YEAR, AS SUBJECT TO SECTION FOUR OF ARTI-
35 CLE VII OF THE STATE CONSTITUTION AND SECTION SEVEN OF ARTICLE IV OF THE
36 STATE CONSTITUTION.

37 6. "EMERGENCY" SHALL MEAN AN EXTRAORDINARY, UNFORESEEN, OR UNEXPECTED
38 OCCURRENCE, OR COMBINATION OF CIRCUMSTANCES, INCLUDING BUT NOT LIMITED
39 TO A NATURAL DISASTER, INVASION, TERRORIST ATTACK, OR ECONOMIC CALAMITY.

40 S 251. ESTABLISHMENT OF ANNUAL SPENDING GROWTH CAP. 1. THERE IS HEREBY
41 ESTABLISHED AN ANNUAL SPENDING GROWTH CAP.

42 2. THE GOVERNOR SHALL NOT SUBMIT, AND THE LEGISLATURE SHALL NOT ACT
43 UPON, A BUDGET THAT CONTAINS A PERCENTAGE INCREASE OVER THE PRIOR FISCAL
44 YEAR IN STATE OPERATING FUNDS SPENDING WHICH EXCEEDS THE ANNUAL SPENDING
45 GROWTH CAP.

46 3. THE GOVERNOR SHALL CERTIFY IN WRITING THAT STATE OPERATING FUNDS
47 SPENDING IN THE EXECUTIVE BUDGET DOES NOT EXCEED THE ANNUAL SPENDING
48 GROWTH CAP. IF FINAL INFLATION RATE DATA FOR THE PRIOR CALENDAR YEAR IS
49 NOT YET AVAILABLE AT THE TIME THE GOVERNOR SUBMITS HIS OR HER EXECUTIVE
50 BUDGET, HE OR SHE SHALL FURNISH A REASONABLE ESTIMATE OF SUCH PRIOR
51 CALENDAR YEAR INFLATION RATE.

52 4. THE COMPTROLLER SHALL PROVIDE, WITHIN FIVE DAYS OF ACTION BY THE
53 LEGISLATURE UPON THE BUDGET, A DETERMINATION AS TO WHETHER THE STATE

1 OPERATING FUNDS SPENDING AS SET FORTH IN THE STATE BUDGET AS ENACTED
2 EXCEEDS THE ANNUAL SPENDING GROWTH CAP.

3 5. IF THE COMPTROLLER FINDS THAT STATE OPERATING FUNDS SPENDING AS SET
4 FORTH IN THE STATE BUDGET AS ENACTED EXCEEDS THE ANNUAL SPENDING GROWTH
5 CAP, THE GOVERNOR AND THE STATE LEGISLATURE SHALL TAKE CORRECTIVE ACTION
6 TO ENSURE THAT FUNDING IS LIMITED TO THE AMOUNT OF THE ANNUAL SPENDING
7 CAP.

8 S 252. PROVISIONS REGARDING DECLARATION OF EMERGENCY. 1. UPON A FIND-
9 ING OF AN EMERGENCY BY THE GOVERNOR, HE OR SHE MAY DECLARE AN EMERGENCY
10 BY AN EXECUTIVE ORDER WHICH SHALL SET FORTH THE REASONS FOR SUCH DECLA-
11 RATION.

12 2. BASED UPON SUCH DECLARATION, THE GOVERNOR MAY SUBMIT, AND THE
13 LEGISLATURE MAY AUTHORIZE A BUDGET CONTAINING A PERCENTAGE INCREASE OVER
14 THE PRIOR FISCAL YEAR IN STATE OPERATING FUNDS SPENDING THAT EXCEEDS THE
15 ANNUAL SPENDING GROWTH CAP.

16 S 3. This act shall take effect immediately.

17 PART J

18 Section 1. The legislature finds and declares that in order for the
19 state to address its financial deficit, the structure and organization
20 of current governmental agencies must be reviewed. A careful assessment
21 and analysis of the state's current governmental structure could reveal
22 areas in which savings for the taxpayers of the state of New York could
23 be achieved. Such savings will allow the state to position itself for a
24 faster and more complete recovery from the current economic downturn. In
25 addressing the aforementioned matter, the issues under review should
26 include, but not be limited to:

- 27 (1) Economies of scale;
28 (2) Efficient use of resources;
29 (3) Combination and consolidation within functional areas;
30 (4) Combination and consolidation within geographical areas; and
31 (5) Review of best practices.

32 S 2. (a) A legislative commission on governmental restructuring is
33 hereby created to conduct the examination and analysis as described in
34 section one of this act, and recommend the best course of action for
35 reorganizing the government of the state.

36 (b) The commission shall consist of twelve members, each shall be
37 appointed for a term of one hundred eighty days, consisting of four
38 members appointed by the temporary president of the senate, four members
39 appointed by the speaker of the assembly, two members appointed by the
40 minority leader of the senate, and two members appointed by the minority
41 leader of the assembly.

42 (c) The commission may meet within and without the state, shall hold
43 public hearings, and shall have all the powers of a legislative commit-
44 tee pursuant to the legislative law.

45 (d) The members of the commission shall receive no compensation for
46 their services, but shall be allowed their actual and necessary expenses
47 incurred in the performance of their duties pursuant to this act.

48 (e) To the maximum extent feasible, the commission shall be entitled
49 to request and receive and shall utilize and be provided with such
50 facilities, resources, and data of any court, department, division,
51 office, board, bureau, commission, or agency of the state or any poli-
52 tical subdivision thereof as it may reasonably request to properly carry
53 out its powers and duties pursuant to this act.

1 (f) The appointing authorities shall appoint the members of the legis-
2 lative commission on governmental restructuring on or before fifteen
3 days after this act shall have become law and the commission shall
4 convene its first meeting on or before fifteen days thereafter.

5 (g) The commission shall issue a report to the governor, the temporary
6 president of the senate, the speaker of the assembly, the minority lead-
7 er of the senate, and the minority leader of the assembly of its find-
8 ings, conclusions, and recommendations on or before December 31, 2009.

9 S 3. This act shall take effect immediately and shall expire and be
10 deemed repealed March 31, 2010.

11 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
12 sion, section or part of this act shall be adjudged by any court of
13 competent jurisdiction to be invalid, such judgment shall not affect,
14 impair, or invalidate the remainder thereof, but shall be confined in
15 its operation to the clause, sentence, paragraph, subdivision, section
16 or part thereof directly involved in the controversy in which such judg-
17 ment shall have been rendered. It is hereby declared to be the intent of
18 the legislature that this act would have been enacted even if such
19 invalid provisions had not been included herein.

20 S 3. This act shall take effect immediately provided, however, that
21 the applicable effective date of Parts A through J of this act shall be
22 as specifically set forth in the last section of such Parts.