§ 236. Public television and radio. 1. Short title. This section shall be known and may be cited as the "Public Television and Radio Act of nineteen hundred seventy-eight".

2. Legislative findings and declaration of intent. In the years since New York state's educational television act was passed in nineteen hundred fifty-four, public television in New York has made enormous strides. Audiences which only a decade ago were calculated in the thousands now number in the millions. Approximately seven million New York residents now view public television every week. Public television, which initially served only a handful of students, now brings nearly ten thousand hours annually of the best of the state's and the nation's educational programming to over one million two hundred thousand students in three thousand schools throughout the state. These programs are used by approximately fifty thousand teachers for direct classroom instruction. Public television also provides the state's youngsters with some twelve thousand hours annually of the finest children's programming available including "Sesame Street", "Electric Company", "Zoom" and "Mr. Rogers Neighborhood". In addition, public television provides a wealth of specialized programming in the educational and cultural arts designed for viewing by, among others, minority and ethnic populations, senior citizens, the unemployed, consumers and citizens interested in the performing arts. It is the sense of the legislature that public television's contributions to the people of New York state have been exceptional. Despite public broadcasting's great progress in New York state in recent years, its full potential remains untapped. It is, therefore, the intent of the legislature both to maintain and, expand the role of public broadcasting in supplying educational, instructional and cultural programs to New Yorkers, as well as to enhance the state's role in its partnership with its citizens so that this valuable state resource can be nurtured to its optimum potential.

3. Public television and radio corporations; creation and operation. a. The board of regents may incorporate any group, institution or association for the purpose of constructing, owning, operating or maintaining a non-profit and noncommercial public television station or public television and/or radio station for providing educational

television and radio programs. Any such corporation shall be subject to all the provisions applicable to corporations created by the board of regents and, in addition, shall be subject to the provisions of this section.

b. The charter of any such corporation may be amended from time to time, suspended, or revoked, upon the regents' own motion, after notice and an opportunity to be heard, before the board of regents or a committee thereof or a hearing officer designated by the board of regents.

c. Each such corporation and all its operations and the powers and duties of its trustees and officers shall be subject to the general supervision and control of the board of regents and to such rules as the board of regents may adopt and promulgate from time to time with respect to such corporations.

d. The television programs developed and presented by such corporations shall consist of educational, instructional and cultural programs.

e. The appointment or election of any trustee of such corporation shall be subject to approval by the regents while under regents' charter and through the first five years of broadcast operations. The regents may reinstitute requirements for trustee approval over a reasonable period on finding a corporation in violation of an applicable rule, regulation or law. After the expiration of rule requirements, corporations shall include a list of current trustees in its annual report.

f. The regents may remove any trustee, officer or employee of such corporation for misconduct, incapacity, wilful violation or neglect of duty under this chapter, or wilfully disobeying, or refusing to comply with, any order or rule of the regents. The hearing in the proceeding for the removal of any such person shall be had before the board of regents or a committee thereof or a hearing officer designated by the board of regents and such trustee, officer or employee shall be given at

least ten days' notice of the time and place of such hearing.

g. The use of programs for partisan or political purposes or to influence the enactment of legislation shall, in the discretion of the board of regents, be basis for termination of the corporate charter.

h. Each such corporation shall render a report to the board of regents not later than October first of each year upon such matters as the regents may require, and shall furnish such other reports and information from time to time as the regents may require.

i. Any corporation created under the provisions of this section may make purchases of commodities and services through the office of general services subject to such rules as may be established from time to time pursuant to section one hundred sixty-three of the state finance law; provided that each such purchase shall have a cost of five hundred dollars or more and that said corporation shall accept sole responsibility for any payment of such cost due the vendor.

4. Grants-in-aid to public television and radio corporations and public radio stations. a. There shall be apportioned, as assistance for approved operating expenses of public television corporations governed by the provisions of this section, an amount not exceeding the product of the number of residents of the state as determined from the nineteen hundred eighty decennial federal census multiplied by: one dollar for the period beginning July first, nineteen hundred eighty-five and ending June thirtieth, nineteen hundred eighty-six; one dollar multiplied by four-twelfths plus one dollar and twenty-five cents multiplied by eight-twelfths for the period beginning July first, nineteen hundred eighty-six and ending June thirtieth, nineteen hundred eighty-seven; and one dollar and forty cents for the period beginning July first, nineteen hundred eighty-seven and ending June thirtieth, nineteen hundred eighty-eight, and annually thereafter. Such amount shall be allocated to each such corporation in accordance with a formula and schedule of payments developed and approved by the commissioner and the director of the division of the budget.

b. The formula and schedule of payments developed pursuant to paragraph a hereof shall include provision for an amount not less than twenty percent of the total state operating assistance for instructional television services to be provided to local educational agencies by public television corporations through agreements with local school districts, subject to the approval of the commissioner.

c. There shall be annually apportioned funds for the payment of approved capital expenses of educational television corporations and public radio stations in such amounts and in such manner as the legislature shall provide.

d. There shall be apportioned, as assistance for approved radio programming operating expenses, an amount not exceeding: eighty thousand dollars for the period beginning July first, nineteen hundred eighty-five and ending June thirtieth, nineteen hundred eighty-six, and eighty thousand dollars multiplied by four-twelfths plus one hundred thousand dollars multiplied by eight-twelfths for the period beginning July first, nineteen hundred eighty-six and ending June thirtieth, nineteen hundred eighty-seven, and one hundred ten thousand dollars for the period beginning July first, nineteen hundred eighty-seven and ending June thirtieth, nineteen hundred eighty-eight, and annually thereafter to each public television and radio corporation, governed by the provisions of this section, and to each public radio station, as defined in paragraph f of this subdivision and paid in accordance with a formula and schedule of payments developed and approved by the commissioner and the director of the division of the budget. Recipients of assistance shall render a fiscal report to the board of regents not later than December first of each year upon such matters as the regents may require and shall furnish annually such other fiscal reports as the regents may require.

e. On or before November first in each year, the board of regents shall submit to the division of the budget a plan outlining a matching capital grant program for approved capital expenses of public television and/or radio corporations and public radio stations to meet the replacement costs of capital items including towers, antennas,

transmitters, videotape recorders, cameras, film chains, control room equipment, buildings and building renovations.

f. Notwithstanding any other provisions of law, for purposes of this subdivision the term "public radio station" shall mean a non-profit and noncommercial radio station which meets the following requirements:

(1) The station shall be licensed to:

(i) an institution chartered by the board of regents; or

(ii) an agency of a municipal corporation; or

(iii) a corporation created in the state education department and within the university of the state of New York.

(2) The station other than stations operated by corporations approved for funding prior to April first, nineteen hundred eighty-five shall have for a period of three consecutive years immediately prior to apportionment of such money and all recipients shall continue to after receipt of such money:

(i) broadcast at least eighteen hours per day or the maximum hours of operation authorized by the federal communications commission, whichever is less, three hundred sixty-five days per year; and

(ii) operate with a staff of at least five full-time members paid at least the federal minimum wage, a budget that includes at least ninety-five thousand dollars of non-federal income of which a reasonable portion is received from local business, foundations, or individual contributors paid either directly to the radio station or broadcast corporation or to a not-for-profit corporation for the benefit of such radio station and an effective radiated power equivalent to three thousand watts at five hundred feet above average terrain or the maximum tower height authorized by the federal communications commission, whichever is less for FM radio stations or two hundred fifty watts for AM radio stations.

g. At such time that assistance authorized by paragraph a of this subdivision exceeds the sum appropriated in state fiscal year nineteen hundred ninety--nineteen hundred ninety-one, there shall be apportioned as assistance for approved operating expenses of New York city-licensed WNYC-TV, for each three hundred sixty-five hours of public service programming broadcast by such station annually, an amount equal to one

percent of that portion of public television assistance for approved operating expenses which represents the increment above the level appropriated in state fiscal year nineteen hundred ninety--nineteen hundred ninety-one; provided, however, that the total apportionment to WNYC-TV shall not exceed ten percent of such incremental assistance over such nineteen hundred ninety--nineteen hundred ninety-one level. Notwithstanding any provision of this paragraph to the contrary, such funding for WNYC-TV shall not diminish the amount of state aid received by the nine public television corporations pursuant to paragraph a of this subdivision in state fiscal year nineteen hundred ninety--nineteen hundred ninety-one. For the purposes of this subdivision, "public service programming" shall be defined as non-commercial cultural, instructional or educational programming. In order to qualify for assistance under this subdivision, the minimum hours of non-commercial public service programming, shall be eight hours daily and shall include three hours daily of prime time service, which is defined as service between the hours of 8:00 p.m. and 11:00 p.m. Non-commercial public service programming, other than prime time, shall be broadcast in blocks of not less than one hundred twenty minutes. All funds so apportioned shall be used for non-commercial public service television broadcast activities. WNYC-TV shall render a report to the commissioner not later than December first of each year such funds are appropriated upon the use of such appropriation, and shall furnish such other reports and information relating to such funds as the commissioner may from time to time require. Funds appropriated pursuant to this subdivision shall not be used for partisan or political purposes or to influence the enactment of legislation.

h. There shall be apportioned, at such time that any appropriation exceeds the sum appropriated in state fiscal year nineteen hundred ninety--nineteen hundred ninety-one for approved capital expenses of educational television corporations and public radio stations, as provided in paragraph c of this subdivision, an amount to New York city-licensed WNYC-TV. Notwithstanding any provisions of this paragraph to the contrary, such funding shall not diminish the amount of state aid, for capital purposes, that the nine public television corporations and fifteen public radio stations received in state fiscal year nineteen

hundred ninety--nineteen hundred ninety-one. WNYC-TV shall render a report to the commissioner not later than December first of each year such funds are appropriated upon the use of funds apportioned pursuant to this paragraph, and shall furnish such other reports and information relating to such funds as the commissioner may require.

5. Implementation. For the purposes of carrying out the provisions of this section, the regents may make rules, or authorize the commissioner to make regulations, providing for the implementation of this section, including provision for annual audited reports of the financial records of such corporations as the regents or the commissioner may require.