§ 318. Distribution of surplus computers. 1. General definitions. As used in this section:

(a) "Computer" means a computer central processing unit (CPU) and, where attached to a CPU, such computer cases, computer memory, cards and other peripheral devices as may reasonably be viewed functionally as one unit.

(b) "Computer software" means executable computer programs and related data files on computer-related media, including but not limited to floppy disks, hard disks, optical and magneto-optical computer data storage devices.

(c) "Computer equipment" means computers, computer memory, cards, and associated peripheral devices, including but not limited to floppy disk drives, hard disk drives, printers, modems, computer-related cables and networking devices, scanners, computer monitors and computer software.

2. The commissioner and the commissioner of general services shall, within one hundred eighty days of the effective date of this section, in consultation with members of the computer industry, representatives of school boards associations, and teachers' organizations, develop guidelines by which the monetary value of surplus computer equipment can be compared with its potential educational value, in order to assist the commissioner of general services to implement the provisions of section one hundred sixty-eight of the state finance law.

3. The commissioner shall, within one hundred eighty days of the effective date of this section, and with the advice and counsel of the office of general services:

(a) develop guidelines governing distribution of state owned surplus computer equipment to learning institutions involved in the repair and restoration of such computer equipment; such guidelines shall identify technical educational programs in the colleges and schools within the state with the capacity to repair and restore computer equipment and which may use the repair of such equipment in the technological training of their students;

(b) develop guidelines under which repaired and restored computer equipment shall be equitably distributed, subject to the following guidelines:

(i) distribution of state-owned surplus computer equipment shall be provided to public schools, the division for youth, public libraries, and other public and private institutions for secular educational use, and to not-for-profit institutions for use by individuals with disabilities, upon proof of need, and subordinate to the requirements of the public schools, the division for youth and libraries of New York state;

(ii) distribution of surplus computer equipment shall be based on competitive proposals from schools, the division for youth, libraries, and other public and private educational programs for secular educational use, including not-for-profit institutions serving persons with disabilities, which shall demonstrate need and specific plans for the use of such equipment; and

(iii) the department shall assist applicants in preparing such proposals.

4. (a) The commissioner is hereby authorized to seek and to accept the transfer of title of surplus computer equipment of educational value from agencies of the state and from the office of general services for further distribution consistent with the purposes of this section and pursuant to the guidelines developed under subdivisions two and three of this section. Such distribution shall be performed by the office of general services upon the request of the commissioner. Any transportation costs for shipping such surplus equipment shall be borne by the office of general services.

(b) The department shall periodically distribute copies of an inventory of surplus computer equipment that is available for distribution contemplated by this section to educational institutions under its supervision and to such other institutions as the commissioner shall have designated, and make it known that those institutions may submit proposals to obtain such computer equipment. Upon a proposal having been approved pursuant to this section, the office of general services shall deliver such computer equipment to the recipient pursuant to paragraph (c) of this subdivision.

(c) The office of general services may charge reasonable fees to the final recipients of such computer equipment for shipping and handling, including costs associated with shipping such computer equipment to

institutions authorized pursuant to this section to repair or restore such computer equipment, provided that such fees shall not exceed one-half the value of the computer equipment as determined pursuant to subdivision two of this section, provided that such fees are published, updated, and distributed with the inventories to the department, and provided that requests for proposals for such computer equipment contain a summary of accompanying fees. Nothing herein shall be construed to prohibit such institutions involved in the repair and restoration of such computer equipment from arranging for the shipping and handling of such computer equipment to and/or from such institution on its own.

5. The commissioner may accept any and all donations of money, equipment, supplies, materials or services, from any person, firm, association, foundation, or corporation, and may receive and utilize the same in fulfilling the purposes and provisions of this section. Any donation so accepted shall be reported in the report required by subdivision six of this section. Such report shall include the nature and amount of the donation and the identity of each donor, except where such donor has requested anonymity in writing.

6. The commissioner shall:

(a) Keep inventory of computer equipment distributed under this section to educational facilities based on information provided to the commissioner by the office of general services; and

(b) In collaboration with the commissioner of general services, report every two years to the governor, the temporary president of the senate, the speaker of the assembly, the inspector general and the state comptroller. The initial report shall be submitted on the first of July, not more than two years after the date on which this section shall have become law. The report shall include but not be limited to current inventories of surplus computer equipment in the possession of the department and of the office of general services, inventories of surplus computer equipment that have been distributed to educational institutions, summaries of requests and deliveries to the various institutions, the criteria used in determining which institutions received what equipment, and recommendations for more effective means of carrying out their duties under this section.

7. To promote the purposes of this section, the commissioner shall examine alternative methods for service, repair, and distribution of computer equipment and may apply for and utilize such state and federally funded programs as may appear effective and consistent with the purposes of this section. Any grant or services accepted under this part shall be reported in the biennial report required by subdivision six of this section. Such report shall include the nature, amount and source of each grant or services.

8. Nothing in this section shall limit the authority of the commissioner or the commissioner of general services to establish mechanisms by which donated or state-owned surplus property that is not computer equipment, but has educational usefulness for enhancing technological and scientific literacy that substantially exceeds its monetary value, may be provided to public and private institutions for educational use.

9. In developing and carrying out guidelines under this section, the commissioner of general services and the commissioner shall ensure that software will not be transferred pursuant hereto if such transfer would cause a breach of a computer software license agreement or an infringement of a copyright.