§ 409-b. Distribution of surplus revenue. 1. Notwithstanding any inconsistent provisions of section four hundred nine of this article, the commissioner shall establish a plan for distribution of surplus revenue to the institutional program in accordance with the provisions of this section.

2. The commissioner shall annually certify to the director of the budget when there are sufficient receipts deposited to the department of health income fund to meet the department's revenue target for debt service and institutional operations established in the budget for the fiscal year.

3. The commissioner shall allocate the full amount of the receipts received from state hospitals within the department which exceed the amount certified to the director of the division of the budget pursuant to subdivision two of this section to be paid over and deposited in the surplus revenue account established pursuant to subdivision four of this section to be allocated to such facilities in accordance with subdivision five of this section.

4. There shall be established within the special revenue funds - other a department of health facility surplus revenue account. All surplus revenues allocated pursuant to subdivision three of this section shall be paid over and deposited to the department of health facility surplus revenue account.

5. The commissioner shall segregate any funds available in the department of health facility surplus revenue account pursuant to subdivision four of this section to the state hospitals within the department based on consideration of the following factors: (i) the proportion of funds that each facility contributes to such surplus revenue; and (ii) the amounts each facility contributed to the department of health income fund under section four hundred nine of this article. The amounts shall be allocated to each facility in accordance with a plan, subject to the approval of the commissioner, submitted by each facility to ensure that such funds are used for non-recurring expenses including personal services contracts and equipment leases and

rentals that are for no more than one year, but are potentially renewable and meet all applicable state purchasing requirements.