State of New York
Executive Education Budget Bill

Originally submitted to
Senate and Assembly on January 31, 2007

The following version incorporates the 21-day amendments submitted by the Governor.

Matter in ***italics*** (underscored here) is new; matter in bracket[—] is old law to be omitted.

STATE OF NEW YORK

S. 2107--A A. 4307--A

SENATE - ASSEMBLY

January 31, 2007

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to uniform quality standards for pre-kindergarten programs, the review of regents learning standards, the development of an enhanced accountability system, establishing a distinguished educator program, the development of a school leadership report card, tenure determinations, and requiring certain schools to prepare contracts for excellence (Part A); to amend the arts and cultural affairs law, in relation to designating a member of the board of regents to serve on the New York state cultural education trust; to amend the education law, in relation to authorizing the commissioner of education to expend money for formula grants to public library systems in the 2007-2008 state fiscal year, special education classification reviews, the textbook factor and the library materials factor for the 2007-2008 school year, the amount annually appropriated for general support for public schools commencing with the 2011-2012 school year, the determination of selected actual evaluation, the computation of pupil counts and related factors, apportionment of public moneys to certain school districts, transitional aid for charter school payments, the universal pre-kindergarten program, charter schools, full-day kindergarten transition planning grants, supplemental educational improvement grants and the excelsior scholars program for certain students; to amend the state finance law, in relation to the state lottery fund; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for workers education in New York city, in relation to certain reimbursements and the effectiveness of such chapter; to amend chapter 169 of the laws of 1994, relating to certain provisions related to the 1994-95 state operations, aid to localities,

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

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capital projects and debt service budgets, in relation to the effectiveness thereof; to amend chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, in relation to the effectiveness thereof; to amend chapter 472 of the laws of 1998, amending the education law, relating to the lease of school buses by school districts, in relation to the effectiveness thereof; to apportionment of monies appropriated for the support of public libraries; to establish the school district efficiency review program; to provide for special apportionment for salary expenses; to provide special apportionment for public pension accruals; in relation to suballocation of certain education department monies; to establish a temporary task force on preschool special education; to repeal certain provisions of the education law relating to annual apportionments to school districts; and providing for the repeal of certain provisions upon expiration thereof (Part B); to amend the education law, in relation to providing additional mayoral involvement in school governance in certain cities (Part C); to amend the real property tax law and the tax law, in relation to establishing a "Middle Class STAR" program; to amend the administrative code of the city of New York, in relation to credits against tax; to amend the state finance law, in relation to reimbursement payments to the city of New York; and to repeal certain provisions of the real property tax law and the tax law, relating to a local real property tax rebate and a state income tax credit (Part D); to amend the education law, in relation to eligibility requirements and conditions governing awards and loans (Part E); in relation to the discontinuance of services and operations at specified residential programs operated by the office of children and family services (Part F); to amend the state finance law, in relation to establishing the youth facility per diem account; and to amend the executive law, in relation to the reimbursement owed to the state by the social services districts for expenditures made by the office of children and family services for the care, maintenance and supervision of youth in office facilities and programs (Part G); in relation to preventive services funding (Part H); to amend part C of chapter 83 of the laws of 2002 amending the executive law and other laws relating to funding for children and family services, in relation to making the provisions of such part permanent (Part I); to amend the executive law, in relation to establishing the office for the blind and in relation to establishing vending programs; to repeal chapter 693 of the laws of 1992 relating to establishing a vending program for the blind and visually handicapped; to repeal chapter 415 of the laws of 1913, relating to establishment of a state commission for the blind and visually handicapped; and to repeal section 38 of the social services law relating to removing the state commission for the blind and visually handicapped as a bureau of the department of family assistance (Part J); and to improve performance and provide flexibility in the allocation of temporary assistance for needy families (Part K)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2007-2008

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

PART A

Section 1. Section 305 of the education law is amended by adding a new subdivision 36 to read as follows:

36. The commissioner shall promulgate regulations, consistent with policies established by the board of regents, prescribing uniform quality standards for all pre-kindergarten programs operated by school districts, including both state-funded and locally-funded pre-kindergarten programs, other than preschool special education programs approved under subdivision nine or nine-a of section forty-four hundred ten of this chapter for which standards are prescribed under the regulations of the commissioner governing special education. Such uniform standards shall be consistent with the standards prescribed by the board of regents and the commissioner for universal pre-kindergarten programs pursuant to subdivision twelve of section thirty-six hundred two-e of this chapter. The board of regents and the commissioner shall assure that the standards applied to preschool special education programs are as consistent with the standards established pursuant to this subdivision as is practicable.

a. Such regulations shall prescribe minimum qualifications for personnel providing instructional services in pre-kindergarten programs. In promulgating such regulations, the commissioner and the board of regents shall take into account the availability of certified teachers and teaching assistants to provide instruction in pre-kindergarten programs and shall consider ways to increase the pool of qualified personnel.

b. Such regulations shall require all school districts operating pre-kindergarten programs subject to this subdivision to adopt and implement curriculum standards that ensure that such programs have strong instructional content that is integrated with the school district's instructional program in grades kindergarten through twelve.

c. Such regulations shall prescribe standards for performance of pre-kindergarten programs, establish procedures for assessing the performance of such programs and establish mechanisms for tracking progress of such programs and reporting such progress to parents of pre-kindergarten students and the public.

d. Notwithstanding any other provision of law, rule or regulation to the contrary, the board of regents and the commissioner shall be authorized to include in such regulations measures to promote implementation of pre-kindergarten programs operated by eligible agencies in alternative settings, including libraries and community-based organizations, that comply with this subdivision and section thirty-six hundred two-e of this chapter.

§ 2. The education law is amended by adding five new sections 211, 319, 320, 321 and 322 to read as follows:

§ 211. Review of regents learning standards. 1. The regents shall periodically review and evaluate the existing regents learning standards

to determine if they should be strengthened, modified or combined so as to ensure that upon graduation from high school, students will have the skills and knowledge they need to succeed in employment or postsecondary education and to function productively as civic participants. Such review and evaluation shall be conducted upon a schedule adopted by the regents, provided that a review and evaluation of the English language arts standards shall be completed as soon as possible, but no later than the end of the two thousand seven--two thousand eight school year.

2. In conducting such reviews, the regents shall seek the recommendations of teachers, school administrators, teacher educators and others with educational expertise on improvements to the standards so that they ensure that students are prepared, in appropriate progression, for post-secondary education or employment.

§ 319. Enhanced state accountability system. To more fully implement the requirements of section one thousand one hundred eleven of the elementary and secondary education act of nineteen hundred sixty-five, as amended, and the federal regulations implementing such statute, the regents and the commissioner shall develop and implement an enhanced state accountability system that uses growth measures to the extent required by this section.

1. By the start of the two thousand eight--two thousand nine school year, the regents and the commissioner shall establish, using existing state assessments, an interim, modified accountability system for schools and districts that is based on a growth model, subject to approval of the United States department of education where required under federal law.

2. The regents and the commissioner shall proceed with development of an enhanced accountability system, with revised or new state assessments, based on an enhanced growth model that, to the extent feasible and consistent with federal law, includes a value-added assessment model that employs a scale-score approach to measure growth of students at all levels. If the regents and the commissioner establish that the assessment scaling and accountability methodology employed have been determined by external experts in educational testing and measurement to be valid and reliable and in accordance with established standards for educational and psychological testing, and the approval of the United States department of education has been obtained where required by federal law, the enhanced growth model shall be implemented no later than the start of the two thousand ten--two thousand eleven school year.

3. In implementing the provisions of subdivisions one and two of this section, the regents and the commissioner shall by July first, two thousand eight, establish targets for improvement of schools and school districts based upon performance on state assessments, graduation rates and other indicators of progress, such as college attendance and completion rates.

4. The regents and the commissioner shall ensure that by July first, two thousand eight a student progress report, written in plain language and in a form prescribed by the commissioner, is prepared for all students, to provide parents and other persons in parental relation to the student with information on their child's performance on state assessments over multiple years of testing, and an opportunity to inquire further about their child's progress. All school districts and charter schools shall disseminate the student progress report to parents and other persons in parental relation in a timely manner.

5. The commissioner shall develop methods to support educators in the use of data to assist in student learning, which shall be periodically improved based on feedback from educators.

6. The regents and the commissioner shall develop informational materials to assist parents and teachers in understanding the regents learning standards and the results of state assessments.

7. As used in this chapter, the following words shall have the following meanings:

a. "Growth model" shall mean the assessment of a cohort of students, or individual students, over time that measures the academic progress made by those students.

b. "Value added assessment model" shall mean a form of growth model that includes an evaluation of the specific effects of a particular school, program, district or teacher on the academic progress of individual students over time.

§ 320. Consequences for consistent lack of improvement in academic performance. 1. In addition to taking appropriate action pursuant to the regulations of the commissioner and the requirements of federal law to intervene when schools are in improvement, corrective action or restructuring status, or have been determined to be schools requiring academic progress (SRAP), the commissioner shall expand the scope and improve the effectiveness of the schools under registration review (SURR) process in the two thousand seven--two thousand eight school year and thereafter, so as to significantly increase the number of schools required to restructure or reorganize, as defined by the commissioner. The goal of such expansion shall be to restructure or reorganize up to a total of five percent of the schools in the state within four years.

2. The commissioner shall develop plans for intervention in schools under restructuring or SURR status that fail to demonstrate progress on established performance measures and may be targeted for closure. Such plans shall specify criteria for school closure and include processes to be followed, research based options, alternatives and strategies to reorganizing, restructuring or reconfiguring schools, and shall be developed with input from parents, educators including, but not limited to, administrators, teachers and individuals identified as distinguished educators pursuant to section three hundred twenty-one of this article. Districts that are identified as deficient shall be required to submit an action plan to address deficiencies to the commissioner for approval. In formulating the action plan the district shall consider redirecting resources for use in programs and activities included in the menu of options prescribed by the commissioner under subdivision two of section three hundred twenty-three of this chapter. If such options are not adopted in the action plan, the school district shall provide the commissioner with an explanation of such decision. The board of education shall hold a public hearing before adoption of an action plan and a transcript of the testimony at such hearing shall be submitted to the commissioner for review with the action plan. Notwithstanding any provision of law to the contrary, the commissioner shall establish a two-step process for state intervention, as follows:

a. The appointment of a school review team to conduct resource, program and planning audits for schools of the district and to assist any school in school improvement, corrective action, restructuring, SRAP or SURR status in developing and implementing a school improvement, corrective action or restructuring plan for the school. The costs of such school review team shall be a charge upon the school district, or charter school where applicable, that operates the school.

b. The appointment of a joint school intervention team, for schools of the district in restructuring or SURR status that have failed to demonstrate progress as specified in their corrective action plan and comprehensive education plan. The team will include representatives appointed by the commissioner and educators from the district, and shall develop, review and recommend plans for reorganizing or reconfiguring schools that are recommended to be closed. The costs of such school intervention team shall be a charge upon the school district that operates the school.

3. a. The commissioner shall promulgate regulations requiring that the trustees or board of education of every school district, or the chancellor of a city school district in a city having a population of one million or more, in the case of a superintendent of schools, community superintendent or deputy, assistant, associate or other superintendent of schools who has been or will be appointed for a fixed term, include in any contract of employment of such superintendent that is entered into or amended on or after the effective date of such regulations, a provision requiring that such contract specify that after deficient performance by the district over a period of two years, as defined by the regents and the commissioner, the superintendent shall be required to cooperate fully with a distinguished educator or team of distinguished educators appointed by the commissioner, and a provision making deficient performance over a period of four years cause for removal of the superintendent. The reasonable costs of such distinguished educator or team of distinguished educators, as determined by the commissioner, shall be paid by the school district.

b. In the case of a superintendent of schools, community superintendent or deputy, assistant, associate or other superintendent of schools who is not appointed for a fixed term, such provisions shall be deemed to apply to such superintendent as of the effective date of such regulations, or as of the date of appointment, whichever is later. In the case of a charter school, notwithstanding any other provision of law, the contract of employment of the principal or headmaster or other chief school officer of the charter school that is entered into, amended or extended on or after such effective date shall also be required to include such provisions, and such provision shall be deemed to apply to any such officer not appointed for a fixed term.

c. In defining deficient performance for a superintendent of schools having responsibility over more than one community school district in a city school district in a city having a population of one million or more, the commissioner shall deem deficient performance by more than one community school district to constitute deficient performance for the division responsible for such community school district. The provisions of this paragraph shall apply to the chancellor of a city school district in a city having a population of one million or more who shall, for purposes of this subdivision, be deemed to be a superintendent of schools.

4. a. Notwithstanding any other provision of law to the contrary, the commissioner shall promulgate regulations requiring that after deficient performance over a period of four years, as defined by the regents and the commissioner, a board of education or chancellor shall be required to remove the superintendent of schools, and any other superintendents of schools who it determines to be responsible for such deficient performance and to cooperate fully with a distinguished educator or team of distinguished educators appointed by the commissioner. Provided, however, in a school district in a city having a population of one

million or more, the mayor shall be responsible for removal of the chancellor. In any such removal there shall be a rebuttable presumption that the superintendent or chancellor has engaged in willful violation of law or neglect of duty. Provided, however, that if a superintendent of schools or chancellor was not employed as such by the district for at least two years of the deficiency, the board, chancellor or mayor, as applicable, may make a determination that such person is not responsible for the deficiency, and permit the person a further reasonable opportunity to remedy the deficiencies, which may extend only to the end of such person's fourth year as superintendent or chancellor.

b. If the board of education, chancellor or mayor determines that a superintendent of schools or chancellor is not responsible for such deficient performance, it shall submit to the commissioner and the distinguished educator or team of distinguished educators a statement of its reasons for that determination. If the commissioner, after considering the recommendation of the distinguished educator or team of distinguished educators, determines that sufficient reasons were not presented for retaining the superintendent of schools or chancellor, the commissioner shall direct the board of education, chancellor or mayor to remove such person.

c. Such distinguished educators shall be deemed ex officio, non-voting members of the board of education, and the reasonable costs incurred by such distinguished educators, as determined by the commissioner, shall be paid by the school district. Such distinguished educators shall review any school improvement plans for schools of the district, any corrective action plans for such schools or the district and any restructuring plans, and either endorse them without change or make recommendations for modifications to the board of education or chancellor in a school district in a city having a population of one million or more, and the commissioner. Upon receipt of such recommendations for modification, the board of education or chancellor shall either modify its plans accordingly and submit the amended plan to the commissioner for approval or provide a written explanation to the commissioner of its reasons for not adopting such recommendations. Upon review of the board's or chancellor's written explanation, the commissioner shall direct that the plans be modified as recommended by the distinguished educators, unless the board or chancellor has presented a compelling reason for not making the modification. Notwithstanding any other provision of law to the contrary, the commissioner shall promulgate regulations requiring that after deficient performance over a period of six years, the commissioner shall commence a proceeding to remove the board of education, or individual members of such board, or chancellor in a school district in a city having a population of one million or more, pursuant to section three hundred six of this article. In such proceeding, there shall be a rebuttable presumption that the board member or chancellor has engaged in willful violation of law or neglect of duty. Notwithstanding any other provision of law to the contrary, in the event of a removal of members of an elected board of education pursuant to this paragraph that results in a number of board members that is less than the minimum number required for the board to take action, the commissioner shall be authorized to fill all vacancies on the board of education with interim board members who shall serve until an election is held and the elected members take office. In the event of such removal of members of an appointed board that for any reason results in vacancies that cannot be filled within thirty days of removal, the commissioner shall be similarly authorized to make interim

appointments until such vacancies can be filled by the appointing authority. Except where the context indicates a contrary intent, the board of trustees of a charter school shall be deemed a board of education for purposes of this paragraph.

§ 321. Distinguished educators. The regents and the commissioner shall establish a distinguished educator program that recognizes educational leaders under whose leadership schools have demonstrated consistent growth in academic performance, and other individuals who have demonstrated educational expertise, and to enlist their assistance in improving the performance of low performing schools and school districts.

1. Building principals and superintendents of schools under whose leadership schools have demonstrated consistent growth in academic performance, as defined by the regents and the commissioner, including retirees and current employees of school districts, shall be eligible for recognition by the regents as distinguished educators.

2. From the pool of distinguished educators designated by the regents pursuant to this section, the commissioner shall identify distinguished educators who have expressed their willingness to assist low performing schools or districts in improving their academic performance. To the extent practicable, the commissioner shall assign distinguished educators, individually or as teams, to assist schools and districts with comparable demographics to the schools that are or were under such educator's leadership. To the extent practicable, the commissioner shall use available funding to develop incentives for distinguished educators to assist low performing schools and districts. It shall be the duty of the trustees or board of education of each school district, the chancellor of a city school district in a city of one million or more, and the board of trustees of each charter school to facilitate the efforts of distinguished educators in their employ to assist low performing schools and districts by granting reasonable leave requests and otherwise accommodating their efforts, to the extent they do not substantially interfere with the professional educator's performance of his or her regular duties.

§ 322. School leadership and school progress report cards. The commissioner shall develop a school leadership report card and a separate school progress report card to assist boards of education, the state and the public in assessing the performance of school leaders, including superintendents of schools and building principals, and the schools that they lead. The report cards shall include an assessment of the school's progress in achieving standards of excellence including, but not limited to, parent involvement, curriculum, teacher quality, and accountability measures as set forth in section three hundred nineteen of this article. The commissioner shall promulgate regulations requiring the trustees or boards of education of every common, union free, central, central high school and city school district, and the chancellor of a city school district in a city having a population of one million or more, to attach copies of such report cards to the statement of estimated expenditures pursuant to section sixteen hundred eight or seventeen hundred sixteen of this chapter, where applicable, and to otherwise make the report cards publicly available in the same manner as a school district report card.

§ 3. Intentionally omitted.

§ 4. Section 305 of the education law is amended by adding two new subdivisions 12-a and 37 to read as follows:

12-a. The commissioner shall evaluate the effectiveness of all teacher preparation programs in the state, and the timelines and costs of devel-

oping or modifying data systems to collect the necessary data. Such study shall consider measuring the effectiveness of such programs based on the academic performance of their students and graduates and through other measures. The commissioner shall consult with the chancellors of the state university of New York and the city university of New York, and other representatives of institutions of higher education. Upon completion of such study, the commissioner shall make recommendations to the board of regents on implementation of such methodologies.

37. The commissioner shall explore the development of a prekindergarten through postsecondary (P-16) data system that tracks student performance from prekindergarten through attendance at public colleges in this state and links students to teachers or instructors. The commissioner shall consult with other state departments, agencies and instrumentalities of the state about the feasibility of linking the system to other data collection systems containing information relevant to the education of children, including but not limited to social services information. Upon request, all departments, agencies or instrumentalities of the state shall assist the commissioner in identifying barriers to the exchange of data between the P-16 system and social services and other systems under their control and in collaborating to facilitate the free exchange of data, consistent with applicable confidentiality requirements.

§ 5. Subdivision 1 of section 3004 of the education law, as amended by chapter 737 of the laws of 1992, is amended and a new subdivision 6 is added to read as follows:

1. The commissioner shall prescribe, subject to approval by the regents, regulations governing the examination and certification of teachers employed in all public schools of the state, except that no such regulation affecting the examination, certification, license, probationary periods, appointment, and tenure of position of persons employed in the teaching, and supervising service in a city having a population of four hundred thousand or more shall be prescribed which may cause the discontinuance of the service of such persons who have satisfactorily completed their probationary periods, or the removal of such persons from their positions in a manner other than that provided by section twenty-five hundred [~~twenty-three~~] **seventy-three** of this chapter, but no such regulations established by the commissioner or by any school district, or pursuant to the provisions of section twenty-five hundred fifty-four, twenty-five hundred sixty-six, twenty-five hundred sixty-nine, twenty-five hundred seventy-three or [~~thirty hundred~~] **three thousand** eight of this chapter or otherwise, shall hereafter prohibit, prevent or disqualify any person, who is otherwise qualified, from competing, participating and registering for such examination or from obtaining a teacher's certificate or from qualifying for a position as a teacher solely by reason of a disability provided such disability does not interfere with such person's ability to perform teaching duties, nor shall any person who is otherwise qualified be denied enrollment in any teacher training, which provides for certification as a teacher in a school or facility which conducts classes for children with [~~handicapping conditions~~] **disabilities** solely by reason of a disability.

6. The regents and the commissioner shall review the alternative teacher preparation programs available to candidates for teaching certificates under the regulations of the commissioner in the two thousand seven--two thousand eight school year and shall consider means of expanding the availability of such preparation in the future, while

maintaining teacher quality. The regents and the commissioner shall develop programs to assist in the expansion of alternative teacher preparation programs, including the development of experimental teacher preparation training programs.

§ 6. Subdivision 2 of section 2509 of the education law, as amended by chapter 732 of the laws of 1971, is amended to read as follows:

2. At the expiration of the probationary term of any persons appointed for such term, or within six months prior thereto, the superintendent of schools shall make a written report to the board of education recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory**, consistent with any applicable rules of the board of regents adopted pursuant to section three thousand twelve-b of this chapter**. By a majority vote the board of education may then appoint on tenure any or all of the persons recommended by the superintendent of schools. Such persons and all others employed in the teaching service of the schools of such school district who have served the full probationary period shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a of such law. Failure to maintain certification as required by this chapter and the regulations of the commissioner of education shall constitute cause for removal.

§ 7. Subdivisions 5 and 6 of section 2573 of the education law, subdivision 5 as amended by chapter 116 of the laws of 1971 and subdivision 6 as amended by chapter 210 of the laws of 2001, are amended to read as follows:

5. At the expiration of the probationary term of any persons appointed for such term, the superintendent of schools shall make a written report to the board of education recommending for permanent appointment those persons who have been found competent, efficient and satisfactory**, consistent with any applicable rules of the board of regents adopted pursuant to section three thousand twelve-b of this chapter**. Such persons and all others employed in the teaching, service of the schools of a city, who have served the full probationary period, [~~**or have rendered satisfactorily an equivalent period of service prior to June eighth, nineteen hundred seventeen,**~~] shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a of [~~**such law**~~] **this chapter**. [~~**In a city in which teachers did not have permanent tenure under the laws in force prior to June eighth, nineteen hundred seventeen, such teachers shall be entitled to receive permanent appointments after serving the probationary period fixed by the board of education as herein provided.**~~]

6. In a city having a population of four hundred thousand or more, at the expiration of the probationary term of any persons appointed for such term, the superintendent of schools shall make a written report to the board of education recommending for permanent appointment those persons who have been found satisfactory**, consistent with any applicable rules of the board of regents adopted pursuant to section three thousand twelve-b of this chapter,** and such board of education shall immediately thereafter issue to such persons permanent certificates of appointment. Such persons and all others employed in the teaching service of the schools of such city, who have served the full probationary period[~~**, or have rendered satisfactorily an equivalent period of service prior to March twenty-seventh, nineteen hundred thirty-five,**~~] shall receive permanent certificates to teach issued to them by the certificating

authority, except as otherwise provided in subdivision ten-a of this section, and shall hold their respective positions during good behavior and satisfactory teaching service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a of this chapter.

§ 8. Subdivision 2 of section 3012 of the education law, as amended by chapter 442 of the laws of 1980, is amended to read as follows:

2. At the expiration of the probationary term of a person appointed for such term, subject to the conditions of this section, the superintendent of schools shall make a written report to the board of education or the trustees of a common school district recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory**, consistent with any applicable rules of the board of regents adopted pursuant to section three thousand twelve-b of this article**. Such persons, and all others employed in the teaching service of the schools of such union free school district, common school district and/or school district employing fewer than eight teachers, who have served the probationary period as provided in this section, shall hold their respective positions during good behavior and efficient and competent service, and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a of such law: (a) insubordination, immoral character or conduct unbecoming a teacher; (b) inefficiency, incompetency, physical or mental disability, or neglect of duty; (c) failure to maintain certification as required by this chapter and by the regulations of the commissioner [~~of education~~]. Each person who is not to be recommended for appointment on tenure, shall be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of his probationary period.

§ 9. The education law is amended by adding a new section 3012-b to read as follows:

§ 3012-b. Tenure determinations. 1. The regents shall promulgate rules establishing minimum standards and procedures for tenure determinations for members of the teaching staff of all school districts and boards of cooperative educational services made on or after July first, two thousand eight. Such rules shall require a superintendent of schools or district superintendent of schools, prior to recommending tenure, to evaluate all relevant factors, including the candidate's effectiveness over the applicable probationary period, or over three years in the case of a regular substitute with a one-year probationary period, in contributing to the successful academic performance of his or her students, using a process that complies with subdivision two of this section.

2. The process for evaluation of a candidate for tenure shall be conducted in the manner prescribed in the regents' rules and shall include, but need not be limited to, a combination of:

a. an analysis of data and other information on the performance of the teacher's students, where such data and information are available;

b. peer review by other teachers; and

c. an assessment of the teacher's performance by the teacher's building principal or other building administrator in charge of the school or program.

3. The trustees and board of education of every school district and every board of cooperative educational services, and the chancellor of a city school district of a city with a population of one million or more shall, consistent with existing contractual provisions, make any changes in local rules, regulations, policies and procedures that are necessary

to ensure that tenure determinations made on or after July first, two thousand eight shall be made in compliance with this section.

§ 10. Subdivision 2 of section 3014 of the education law, as amended by chapter 732 of the laws of 1971, is amended to read as follows:

2. On or before the expiration of the probationary term of a person appointed for such term the district superintendent of schools shall make a written report to the board of cooperative educational services recommending for appointment on tenure persons who have been found competent, efficient and satisfactory**, consistent with any applicable rules of the board of regents adopted pursuant to section three thousand twelve-b of this article**. Such persons shall hold their respective positions during good behavior and competent and efficient service and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a of such law: (a) Insubordination, immoral character or conduct unbecoming a teacher; (b) Inefficiency, incompetency, physical or mental disability or neglect of duty; (c) Failure to maintain certification as required by this chapter and by the regulations of the commissioner [~~of education~~]. Each person who is not to be so recommended for appointment on tenure shall be so notified in writing by the district superintendent not later than sixty days immediately preceding the expiration of his probationary period.

§ 11. Section 305 of the education law is amended by adding a new subdivision 38 to read as follows:

38. The commissioner shall assist school districts that include in their contract for excellence the implementation of incentives for highly qualified and experienced teachers to work in low performing schools to ensure that such incentives are effective.

§ 12. The education law is amended by adding a new section 323 to read as follows:

§ 323. Contract for excellence. 1. The commissioner shall adopt regulations requiring each school district that receives an increase in total foundation aid compared to base year in an amount that equals or exceeds either fifteen million dollars or ten percent of the amount received in the base year, whichever is less, or receives a supplemental educational improvement plan grant to prepare a contract for excellence for the district. In school year two thousand seven--two thousand eight such increase shall be the amount of difference between total foundation aid received for the current year and the foundation aid base as defined in paragraph (j) of subdivision one of section thirty-six hundred two of this chapter. In the city school district of the city of New York, a contract for excellence shall be prepared for the city school district and each community school district having one or more such schools. The community school district plan must incorporate a plan for individual schools within the district that will receive increased State aid.

2. Each contract for excellence shall describe how funds apportioned to the school district as total foundation aid as defined in subdivision four of section thirty-six hundred two of this chapter and supplemental educational improvement plan grants as defined in subdivision eight of section thirty-six hundred forty-one of this chapter for the two thousand seven--two thousand eight school year and thereafter, as adjusted for additional amounts payable as charter school basic tuition pursuant to section twenty-eight hundred fifty-six of this chapter in accordance with a methodology determined by the commissioner that exceed aid received in the base year by more than the amount set forth in the opening paragraph of subdivision four of section thirty-six hundred two of this chapter shall be used to support new programs and new activities or

expand the use of programs and activities demonstrated to improve student achievement. The contract shall, in addition, specify the new or expanded programs for which additional amounts of such total foundation aid or grant shall be used and shall affirm that such programs shall predominately benefit students with the greatest educational needs including but not limited to, those students with need factors set forth in the foundation aid formula. The commissioner shall establish a menu of allowable programs and activities intended to improve student achievement, which shall be limited to class size reduction, programs that increase student time on task, teacher quality initiatives, middle school and high school re-structuring and full-day prekindergarten. Provided, however, that the commissioner may authorize districts to use up to fifteen percent of the additional funding they receive for experimental programs designed to demonstrate the efficacy of other strategies to improve student achievement consistent with the intent of this section; provided, however, that any such district seeking such authorization shall first submit a plan to the commissioner setting forth the need for such experimental program and how such program will improve student performance.

3. The school district audit report certified to the commissioner by an independent certified public accountant, an independent accountant or the comptroller of the city of New York pursuant to section twenty-one hundred sixteen-a of this chapter shall include a certification by the accountant, in a form prescribed by the commissioner upon approval of the director of the budget, that expenditures have been made in accordance with subdivision two of this section and that the increases in total foundation aid and supplemental educational improvement plan grants have been used to supplement, and not supplant funds allocated by the district in the base year for such purposes.

4. a. A district's contract for excellence for academic year two thousand eight--two thousand nine and thereafter, shall be developed in consultation with parents, teachers and administrators through a public process which shall include at least one public hearing held in each county within school districts in cities with a population of more than one million inhabitants. A transcript of the testimony presented at such public hearing shall be included when the contract for excellence is submitted to the commissioner, for review when making a determination pursuant to paragraph c of this subdivision. School districts shall solicit public comment on their contracts for excellence for the two thousand seven-two thousand eight school year.

b. Each community school district contract for excellence shall be consistent with the citywide contract and shall be submitted by the community superintendent to the community district education council for review and comment at a public meeting.

c. Each contract for excellence shall be subject to approval by the commissioner and his or her certification that the expenditure of additional aid or grant amounts is in accordance with subdivision two of this section.

5. The trustees or board of education of each school district subject to this section, or the chancellor in the case of a city school district in a city having a population of one million or more, shall assure that procedures are in place by which aggrieved parents or other persons in parental relation to a student may bring complaints concerning implementation of the district's contract for excellence.

a. In a city school district in a city having a population of one million or more, such procedures shall provide that complaints may be

filed with the building principal with an appeal to the community superintendent, or filed directly with the community superintendent, and that appeal of the determination of a community superintendent shall be made to the chancellor.

b. In all other districts, such procedures shall either provide for the filing of complaints with building principals with an appeal to the superintendent of schools or for filing of the complaint directly with the superintendent of schools, and shall provide for an appeal to the trustees or board of education from the determination of the superintendent of schools.

c. The determination of the trustees or board of education or the chancellor may be appealed to the commissioner pursuant to section three hundred ten of this article.

6. The regulations of the commissioner shall require public reporting of the expenditure of total foundation aid in the form and manner prescribed by the commissioner.

7. The commissioner, in consultation with the director of the budget and the state comptroller, shall develop a methodology for reporting of school-based expenditures by all school districts. When such methodology has been approved by the director of the budget, the commissioner shall adopt regulations implementing it.

8. Each school district's contract for excellence shall also indicate, for all funding sources, whether federal, state or local, the instructional expenditures per pupil, the special education expenditures per pupil, and the total expenditures per pupil, projected for the current year and actually incurred in the base year.

§ 13. This act shall take effect immediately.

PART B

Section 1. Sections 2043, 3601-a, 3603 and 3609-c, paragraphs d, e, h and i of subdivision 14 and subdivisions 3, 4, 5, 6-d, 8, 9, 9-a, 11, 11-a, 12, 12-b, 13, 15, 16, 18, 19, 21, 22, 23, 31-a, 32, 37, 38 and 39 of section 3602, subdivisions 1-a, 2, 3, 5, 6, 7 and 8 of section 3641, and subdivision 20 of section 4403, as added by section 51-e of part L of chapter 405 of the laws of 1999, of the education law are REPEALED.

§ 2. Subdivision 2 of section 40.05 of the arts and cultural affairs law, as added by section 64 of part A-1 of chapter 58 of the laws of 2006, is amended to read as follows:

2. The board shall consist of five members as follows: the chancellor of the board of regents of the university of the state of New York, **or his or her designee from the board of regents,** who shall serve as the chair; one member of the board of regents, to be appointed by the commissioner of education; one member appointed by the governor; one member appointed by the majority leader of the senate; and one member appointed by the speaker of the assembly. Members of the board, other than the representative of the board of regents, shall be appointed to the board based on their knowledge and background as relevant to the purposes of the trust, or, due to their experience and knowledge in the fields of New York state history, collection display and management or other related fields.

§ 3. Subdivision 12 of section 273 of the education law, as added by section 3 of part A-5 of chapter 58 of the laws of 2006, is amended to read as follows:

12. The commissioner is hereby authorized to expend in state fiscal year two thousand six--two thousand seven **and two thousand seven--two**

thousand eight three million dollars for formula grants to public library systems, reference and research library resources systems, and school library systems operating under an approved plan of service. Such formula grants shall be provided for the period commencing July first and ending on June thirtieth next following. Such formula grants will be distributed in the following manner:

a. Each public library system established pursuant to sections two hundred fifty-five and two hundred seventy-two of this part and operating under a plan approved by the commissioner is entitled to receive fifteen thousand dollars and an amount equal to four percent of the amount of state aid received by such system in two thousand six--two thousand seven **and two thousand seven--two thousand eight** under paragraphs a, c, d, e and n of subdivision one of this section;

b. Each reference and research library resources system established pursuant to section two hundred seventy-two of this part and operating under a plan approved by the commissioner is entitled to receive fifteen thousand dollars and an amount equal to four percent of the amount of state aid received by such system in two thousand six--two thousand seven **and two thousand seven--two thousand eight** under paragraph a of subdivision four of this section; and

c. Each school library system established pursuant to section two hundred eighty-two of this part and operating under a plan approved by the commissioner is entitled to receive fifteen thousand dollars and an amount equal to a four percent increase over the amount of state aid received by such system in two thousand six--two thousand seven **and two thousand seven--two thousand eight** under paragraphs a, b, c, d, e and f of subdivision one of section two hundred eighty-four of this part.

§ 4. Subdivision 1 of section 273-a of the education law, as amended by section 4 of part O of chapter 57 of the laws of 2005, is amended to read as follows:

1. State aid shall be provided for up to fifty percent of the total project approved costs, excluding feasibility studies, plans or similar activities, for projects for the acquisition, construction, renovation or rehabilitation, including leasehold improvements, of buildings of public libraries and library systems chartered by the regents of the state of New York or established by act of the legislature subject to the limitations provided in subdivision four of this section and upon approval by the commissioner. For purposes of this subdivision, an amount of eight hundred thousand dollars shall be available for each calendar year. Aid shall be provided on approved expenses incurred during the period commencing July first and ending June thirtieth for up to three years, or until the project is completed, whichever occurs first. [~~Ninety~~] **Fifty** percent of such aid shall be payable to each system or library upon approval of the [~~annual~~] application. **Forty percent of such aid shall be payable in the next state fiscal year.** The remaining ten percent shall be payable upon project completion.

§ 5. The education law is amended by adding a new section 324 to read as follows:

§ 324. Special education classification reviews. The commissioner shall review school district rates of classification of students as students with disabilities, including data in a disaggregated format, for all school districts and shall identify school districts with schools with disproportionately high rates of identification of students as students with disabilities, school districts with low rates of declassification of students with disabilities, school districts with high rates of placement of students with disabilities in separate sites

and school districts with significant disproportionality based on race and ethnicity in such identification or placement in a particular setting. The commissioner shall require such school districts to implement research based programs such as the response to intervention literacy programs, as defined by the commissioner, at the grade levels prescribed by the commissioner. The commissioner shall promulgate regulations as necessary to implement this section and provide technical assistance to districts so identified.

§ 6. Subdivision 6 of section 701 of the education law, as amended by section 2 of part H of chapter 83 of the laws of 2002, is amended to read as follows:

6. The commissioner, in addition to the annual apportionment of public monies pursuant to other articles of this chapter, shall apportion to each school district an amount equal to the cost of the textbooks purchased and loaned by the district pursuant to this section in the base year, but in no case shall the aid apportioned to the district exceed the product of the textbook factor plus a minimum lottery grant, determined pursuant to subdivision four of section ninety-two-c of the state finance law, and the sum of the enrollments in grades kindergarten through twelve in the base year calculated pursuant to subparagraphs four, five, and six of paragraph n of subdivision one of section thirty-six hundred two of this chapter. Aid payable pursuant to this section shall be deemed final and not subject to change after April thirtieth of the school year for which payment was due.

For aid payable in the [~~**nineteen hundred ninety-seven--ninety-eight school year, the textbook factor shall equal twenty-five dollars. For aid payable in the nineteen hundred ninety-eight--ninety-nine school year, the textbook factor shall equal twenty-five dollars and ninety cents. For aid payable in the nineteen hundred ninety-nine--two thousand school year, the textbook factor shall equal thirty-one dollars and eighty-seven cents. For aid payable in the two thousand--two thousand one school year, the textbook factor shall equal forty-two dollars and thirty cents. For aid payable in the two thousand one--two thousand two school year, the textbook factor shall equal sixty-three dollars and eighteen cents. For aid payable in the two thousand two--two thousand three**~~] **two thousand seven--two thousand eight** school year and thereafter, the textbook factor shall equal [~~**forty-two**~~] **forty-three** dollars and [~~**thirty**~~] **twenty-five** cents.

§ 7. Subdivision 3 of section 711 of the education law, as amended by section 4 of part C of chapter 58 of the laws of 1998, is amended to read as follows:

3. No school district shall be required to purchase or otherwise acquire school library materials, the cost of which shall exceed an amount equal to the library materials factor multiplied by the sum of the public school district enrollment and the nonpublic school enrollment in the base year as defined in subparagraphs two and three of paragraph n of subdivision one of section thirty-six hundred two of this chapter. For aid payable in the nineteen hundred ninety-eight--nineteen hundred ninety-nine school year, the library materials factor shall be four dollars. For aid payable in the [~~**nineteen hundred ninety-nine--two thousand**~~] **two thousand seven--two thousand eight** school year and thereafter, the library materials factor shall be six dollars **and twenty-five cents**.

§ 7-a. Subdivision 26 of section 3602 of the education law is REPEALED and the education law is amended by adding a new section 753 to read as follows:

§ 753. Instructional computer hardware and technology equipment apportionment. 1. In addition to any other apportionment under this chapter, a school district shall be eligible for an apportionment under the provisions of this section for approved expenses for (i) the purchase or lease of micro and/or mini computer equipment or terminals for instructional purposes or (ii) technology equipment, as defined in paragraph c of subdivision two of this section, used for instructional purposes, or (iii) for the repair of such equipment and training and staff development for instructional purposes as provided hereinafter. Such aid shall be provided pursuant to a plan developed by the district which demonstrates to the satisfaction of the commissioner that the instructional computer hardware needs of the district's public school students have been adequately met and that the school district has provided for the loan of instructional computer hardware to students legally attending nonpublic schools pursuant to section seven hundred fifty-four of this article. The apportionment shall equal the lesser of such approved expense in the base year or, the product of (i) the technology factor, (ii) the sum of the public school district enrollment and the nonpublic school enrollment in the base year as defined in subparagraphs two and three of paragraph n of subdivision one of section thirty-six hundred two of this chapter, and (iii) the building aid ratio, as defined in subdivision four of section thirty-six hundred two of this chapter. For aid payable in the two thousand seven--two thousand eight school year and thereafter, the technology factor shall be twenty-four dollars and twenty cents. A school district may use up to twenty percent of the product of (i) the technology factor, (ii) the sum of the public school district enrollment and the nonpublic school enrollment in the base year as defined in subparagraphs two and three of paragraph n of subdivision one of section thirty-six hundred two of this chapter, and (iii) the building aid ratio for the repair of instructional computer hardware and technology equipment and training and staff development for instructional purposes pursuant to a plan submitted to the commissioner.

2. As used in this article:

a. "Current year" shall have the same meaning as that term is defined in subdivision one of section thirty-six hundred two of this chapter;

b. "Base year" shall have the same meaning as that term is defined in subdivision one of section thirty-six hundred two of this article; and

c. "Technology equipment", for the purposes of this article, shall mean equipment with a useful life used in conjunction with or in support of educational programs including but not limited to video, solar energy, robotic, satellite, laser and such other equipment as the commissioner shall approve provided that expenses for the purchase or lease of such equipment shall not be eligible for aid under any other provisions of this chapter.

3. No school district shall be required to purchase or otherwise acquire instructional computer hardware or technology equipment, the cost of which exceeds the amount of state aid provided pursuant to this section.

4. The apportionment provided for in this section shall be paid at such times as may be determined by the commissioner and approved by the director of the budget, during the school year in which the expenditures are reported to the department prior to such apportionment, but not earlier than the school year after the school year in which expenses are incurred.

5. Expenses aided pursuant to this section shall not be eligible for aid pursuant to any other provision of this chapter.

§ 7-b. The education law is amended by adding a new section 754 to read as follows:

§ 754. Loan of instructional computer hardware. 1. In the several cities and school districts of the state, school authorities, as defined in subdivision twelve of section two of this chapter, shall have the power and duty, to the extent provided in this section, to loan, upon request of an individual or a group of individual pupils, to all pupils legally attending nonpublic elementary or secondary schools located in the school district, instructional computer hardware which is designated for use in any public elementary or secondary schools of the state or is approved by any school authorities. Such instructional computer hardware is to be loaned free to such children, commencing with the two thousand seven--two thousand eight school year, subject to such rules and regulations as are or may be prescribed by the board of regents and such school authorities.

2. No school district shall be required to loan instructional computer hardware in excess of the instructional computer hardware acquired by such district pursuant to section seven hundred fifty-three of this article. Such instructional computer hardware shall be loaned on an equitable basis to children attending nonpublic schools in the district in the current year, provided that nothing in this article shall be construed to require a school district to loan to children attending nonpublic schools, pursuant to this section, instructional computer hardware purchased with local or federal funds or with state funds other than funds apportioned pursuant to this article. The payment of tuition under article eighty-nine of this chapter is deemed to be an equitable loan to children for whom such tuition is paid, and the provisions of this section shall not apply.

3. School authorities shall adopt regulations specifying the date by which requests for the purchase and loan of instructional computer hardware must be received by the district. Notice of such date shall be given to all non-public schools in the school district. Such date shall not be earlier than the first day of June of the school year prior to that for which such instructional computer hardware is being requested, provided, however, that a parent or guardian of a child not attending a particular non-public school prior to June first of the school year may submit a written request for instructional computer hardware within thirty days after such child is enrolled in such non-public school. In no event, however, shall a request made later than the times otherwise provided pursuant to this subdivision be denied where a reasonable explanation is given for the delay in making the request.

§ 8. Subdivisions 2 and 4 of section 2576 of the education law, subdivision 2 as amended by chapter 65 of the laws of 1972 and subdivision 4 as renumbered by chapter 762 of the laws of 1950, are amended to read as follows:

2. In the city school districts of Syracuse, Rochester and Yonkers such estimate shall be filed with the mayor or city manager. Such officer shall place such estimate before the board of estimate and apportionment or other similar body at the same time and in the same manner as estimates from city departments or officers are placed before said board or body, and such estimate shall thereafter be subject to the same consideration, action and procedure as all other estimates from city departments or officers[~~. The~~] **and** said board or body may increase, diminish or reject any item contained in said estimate, except for fixed charges for which the city is liable **and subject to the limitations**

provided by subdivision five-b of this section. When such estimate is adopted, the said board or body shall file it with the common council.

4. In [~~a~~] **the** city [~~which had, according to the federal census of nineteen hundred forty, a population of four hundred thousand or more but less than one million~~] **school district of Buffalo** such estimate shall be filed with the officer authorized to receive other department estimates and the same acted on by such officer and by the council of such city in the same manner and with the same effect as other department estimates **except that such actions shall be subject to the limitations provided by subdivision five-b of this section**. The council is also authorized, in its discretion, to include in such budget a sum for any of the purposes enumerated in paragraph c of subdivision one of this section, and any further amount for such purposes as may be authorized by a tax election held in such city pursuant to the provisions of this chapter. After the adoption of such budget the council shall cause the amount thereof to be included in the tax and assessment roll of the city and the same shall be collected in the same manner and at the same time as other taxes of the city are collected, and placed to the credit of the board of education.

§ 9. Section 2576 of the education law is amended by adding a new subdivision 5-b to read as follows:

5-b. a. For the purposes of this subdivision, the terms:

(i) "city funds" shall mean funds of each city having a population of one hundred twenty-five thousand or more inhabitants and less than one million inhabitants derived from any source except funds contained within the capital budget, funds from county sales tax revenues shared with such city, funds derived from any federal source and funds derived from any state or private sources over which the city has no discretion, as defined pursuant to regulations developed by the commissioner and approved by the director of the budget.

(ii) "city amount" shall mean the total amount of expenditures funded by city funds for the support of the city school district of each city having a population of one hundred twenty-five thousand or more inhabitants and less than one million inhabitants, not including city payments to bond or note holders for debt service payments of such district, as contained within the budget as adopted by such city.

(iii) "base year" shall mean the fiscal year immediately preceding the fiscal year for which the budget referred to in subparagraph (ii) of this paragraph is adopted. The initial base year shall be the fiscal year ending June thirtieth, two thousand seven.

b. The city amount shall not be less than the city amount appropriated in the base year determined at the time of adoption of the budget for the ensuing fiscal year, and shall not be less than the city amount expended in the base year determined as of the end of the school year. Provided, however, in the event the total amount of city funds relied upon to balance such budget is lower than the total amount of city funds appropriated in the base year, as determined at the time of adoption of such budget, the city amount may be reduced by up to the same percentage as the overall percentage decrease in city funds between the base year and the ensuing fiscal year.

c. Upon the enactment of a city budget, the chief executive officer of the city, as defined pursuant to subdivision five-a of section 2.00 of the local finance law, shall annually certify to the commissioner, in a form prescribed by the commissioner upon approval of the director of the budget, as to the city amount in such budget, the city amount in the

base year, and that the city amount appropriated in such budget is in compliance with paragraph b of this subdivision.

d. The school district audit report certified to by an independent certified public accountant or an independent accountant pursuant to section twenty-one hundred sixteen-a of this title shall include a certification by the accountant, in a form prescribed by the commissioner upon approval of the director of the budget, as to the city amount expended in the school year covered by such audit report, the city amount in the prior school year, and that the city amount expended in the school year covered by such audit report is in compliance with paragraph b of this subdivision.

§ 10. Paragraphs 1 and 9 of subdivision 2-a of section 3204 of the education law, as added by chapter 827 of the laws of 1982, are amended to read as follows:

1. Each school district which is receiving [~~**state funds for the education of pupils of limited English proficiency**~~] **total foundation aid** shall develop a comprehensive plan consistent with requirements as the commissioner may establish in regulations to meet the educational needs of such pupils **of limited English proficiency**.

9. Any duly authorized local educational agency or agencies is hereby empowered to make application for any grant or grants in furtherance of this section under any public law enacted by the United States Congress. **Each such local educational agency shall assure that such federal funds made available under part A of Title III of the elementary and secondary education act of nineteen hundred sixty-five, as amended, are used in compliance with the requirements of subsection g of section thirty-one hundred fifteen of such act.**

§ 11. The opening paragraph and subdivision 1 of section 3602 of the education law, the opening paragraph as amended by section 6 of part H of chapter 83 of the laws of 2002, subdivision 1 as added by chapter 57 of the laws of 1993, paragraph c of subdivision 1 as amended by section 8 of part C of chapter 57 of the laws of 2004, paragraph d of subdivision 1 as amended by section 7 of part H of chapter 83 of the laws of 2002, subparagraph 2 of paragraph e and paragraphs i, k and n as amended and paragraphs x and y of subdivision 1 as added by chapter 474 of the laws of 1996, paragraph f of subdivision 1 as amended by section 11-a of part C of chapter 58 of the laws of 1998, paragraph g of subdivision 1 as amended by section 31 of part A of chapter 436 of the laws of 1997, paragraph j of subdivision 1 as amended by section 32 of part A of chapter 436 of the laws of 1997, subparagraph (v) of paragraph j of subdivision 1 as amended by section 11-a of part C of chapter 58 of the laws of 1998, subparagraph 2 of paragraph k of subdivision 1 as amended by section 33 of part A of chapter 436 of the laws of 1997, subparagraph 4 as amended and subparagraph 7 of paragraph n of subdivision 1 as added by section 11 of part L of chapter 405 of the laws of 1999, subparagraph 5 of paragraph n of subdivision 1 as amended by section 12 of part C of chapter 58 of the laws of 1998, subparagraph 6 of paragraph n of subdivision 1 as added by section 34 of part A of chapter 436 of the laws of 1997, paragraphs p and q, and the opening paragraph of paragraph t of subdivision 1 as amended by chapter 260 of the laws of 1993, paragraph r of subdivision 1 as amended by section 9 of part C of chapter 57 of the laws of 2004, paragraph v of subdivision 1 as amended by section 5 of part A-2 of chapter 62 of the laws of 2003, paragraph w as amended by section 10 of part C of chapter 57 of the laws of 2004, subparagraph (i) of paragraph y of subdivision 1 as amended by section 8 of part H of chapter 83 of the laws of 2002, clause (c) of subparagraph (i) of para-

graph y of subdivision 1 as amended by section 6 of part A-2 of chapter 62 of the laws of 2003, clause (d) of subparagraph (i) of paragraph y of subdivision 1 as amended by section 5 of part A-1 of chapter 58 of the laws of 2006, paragraph z of subdivision 1 as amended by section 9 of part H of chapter 83 of the laws of 2002, and paragraph aa of subdivision 1 as added by section 10 of part C of chapter 58 of the laws of 1998, are amended to read as follows:

Notwithstanding any other provisions of this chapter or any other provisions of law, each school district of the state employing eight or more teachers shall receive its apportionment of public money payable during the school year commencing July first, nineteen hundred ninety-three and during subsequent school years pursuant to the provisions of this section and in lieu of any apportionments or payments otherwise payable under any other section of this chapter except any such apportionments or payments that may be payable to such district for school lunches, for textbooks, school library materials, **computer hardware** or computer software, for services or programs provided by a board of cooperative educational services or by a county vocational education and extension board for such district, for the education of Indian children of a reservation under a contract with the state, by virtue of chapter six hundred thirty-five of the laws of nineteen hundred sixty-one, **for school tax relief aid,** or for experimental or special programs in selected school districts, including but not limited to special apportionments and grants-in-aid pursuant to section thirty-six hundred forty-one of this article.

1. Definitions. As used in this section the following terms shall be defined as follows:

a. "Current year" shall mean the school year during which the apportionment is to be paid pursuant to this section.

b. "Base year" shall mean the school year immediately preceding the current year.

c. [~~**For aid payable in the nineteen hundred ninety-six--ninety-seven school year, "actual valuation" shall mean the valuation of taxable real property in a school district obtained by taking the assessed valuation of taxable real property within such district as it appears upon the assessment roll of the town, city, village, or county in which such property is located, for the calendar year immediately preceding the calendar year in which the base year commenced, after revision as provided by law, and dividing it by the state equalization rate as determined by the state board of equalization and assessment, for the assessment roll of such town, city, village, or county completed during such preceding calendar year. For aid payable in the nineteen hundred ninety-seven--ninety-eight school year and thereafter, "actual**~~] **"Actual** valuation" shall mean the valuation of taxable real property in a school district obtained by taking the assessed valuation of taxable real property within such district as it appears upon the assessment roll of the town, city, village, or county in which such property is located, for the calendar year two years prior to the calendar year in which the base year commenced, after revision as provided by law, and dividing it by the state equalization rate as determined by the state board of equalization and assessment, for the assessment roll of such town, city, village, or county completed during such preceding calendar year. The actual valuation of a central high school district shall be the sum of such valuations of its component districts. [~~**For aid payable in the nineteen hundred ninety-six--ninety-seven school year for purposes of aid payable pursuant to this chapter, such actual valuation shall not**~~

~~exceed one hundred seventeen percent of the average of such actual valuation for the two preceding years. For aid payable in the two thousand four--two thousand five school year and thereafter, such~~] **Such** actual valuation shall include any actual valuation equivalent of payments in lieu of taxes determined pursuant to section four hundred eighty-five of the real property tax law. **"Selected actual valuation" shall mean the lesser of actual valuation calculated for aid payable in the current year or the two-year average of the actual valuation calculated for aid payable in the current year and the actual valuation calculated for aid payable in the base year.**

d. "Average daily attendance" shall mean the total number of attendance days of pupils in a public school of a school district **in kindergarten through grade twelve, or equivalent ungraded programs,** plus the total number of instruction days for such pupils receiving homebound instruction including pupils receiving instruction through a two-way telephone communication system, divided by the number of days the district school was in session as provided in this section. [~~Except for the purposes of subdivision thirteen of this section, the~~] **The** attendance of pupils with disabilities attending under the provisions of paragraph c of subdivision two of section forty-four hundred one of this chapter shall be added to average daily attendance.

(1) Equivalent attendance shall mean the quotient of the total number of student hours of instruction in programs in a public school of a school district or a board of cooperative educational services leading to a high school diploma or a high school equivalency diploma as defined in regulations of the commissioner for pupils under the age of twenty-one not on a regular day school register of the district, divided by one thousand. [~~Except for the purposes of subdivision thirteen of this section, average~~] **Average** daily attendance shall include the equivalent attendance of the school district. For the purposes of secondary school weighting, such equivalent attendance shall be considered as average daily attendance in grades seven through twelve.

(2) In computing [~~such~~] **average daily** attendance, school districts may, with the commissioner's approval, exclude attendance for those days on which school attendance was adversely affected because of an epidemic or manmade or natural disaster or act of terrorism. In computing such attendance, the school district shall: [~~(1)~~] **(i)** determine the number of religious holidays which fall on a school day within a school year according to regulations established by the commissioner, such religious holidays to be duly recognized as such for purposes of this section by duly adopted resolution of the board of education; [~~(2)~~] **(ii)** deduct the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; [~~(3)~~] **(iii)** deduct such religious holidays from the total number of days of session, by grade level; and [~~(4)~~] **(iv)** compute the average daily attendance for the school year.

e. Pupils with special educational needs.

(1) "Percentage of pupils with special educational needs" shall be based on the following tests: the third and sixth grade reading and math tests administered in spring of nineteen hundred eighty-five and the spring of nineteen hundred eighty-six. Such percentage shall be calculated as follows:

(i) determine the number of pupils tested who scored below the statewide reference point as determined by the commissioner on each test administered pursuant to this subparagraph, plus pupils, other than pupils with [~~handicapping conditions~~] **disabilities** and pupils with limited English proficiency as defined by the commissioner who are

exempt from taking such tests, provided, however, that a district employing eight or more teachers in such years but not operating each grade may use the percentage computed pursuant to this paragraph for the district which in such years enrolled the greatest number of pupils in such grade from such district;

(ii) divide the sum of such numbers by the number of such pupils who took each of such tests, plus pupils, other than pupils with [~~handicapping conditions~~] **disabilities** and pupils with limited English proficiency as defined by the commissioner who are exempt from taking such tests, provided, however, that a district which in any of the applicable school years did not maintain a home school or employed fewer than eight teachers, and which in the base year employed eight or more teachers, may use the scores in a later test as designated by the commissioner for the purposes of this paragraph;

(iii) express the result as a percentage carried to one decimal place without rounding; and

(iv) for the purposes of the computation made pursuant to this subparagraph, pupils attending campus schools of the state university shall be included in the numbers of pupils in the district in which they reside. The percentage of such pupils in component districts shall be used in the case of central high school districts. The commissioner shall make adjustments for differences in tests and test administration in accordance to regulations adopted for such purposes.

(2) (i) For the computation of total wealth pupil units, "pupils with special educational needs" shall be computed by multiplying the percentage of pupils with special educational needs by the district's adjusted average daily attendance.

(ii) [~~**For the computation of total aidable pupil units pursuant to subdivision eight of this section for aid payable in the nineteen hundred ninety-six--ninety-seven and prior school years, "pupils with special educational needs" shall be computed by multiplying the percentage of pupils with special educational needs by the district's adjusted average daily attendance for the base year.**~~

~~**(iii)**~~] For the computation of total aidable pupils units pursuant to subdivision eight of this section for aid payable in the nineteen hundred ninety-seven--ninety-eight **through the two thousand six--two thousand seven** school [~~**year and thereafter**~~] **years**, "pupils with special educational needs" shall be the product of the percentage of pupils with special educational needs, the district's adjusted average daily attendance for the year prior to the base year, and the enrollment index.

(iii) For the computation of total aidable pupils units pursuant to paragraph e of subdivision two of this section for aid payable in the two thousand seven--two thousand eight school year and thereafter, "pupils with special educational needs" shall be the product of the percentage of pupils with special educational needs, the district's adjusted average daily attendance for the year prior to the base year, and the enrollment index.

(3) "Weighted pupils with special educational needs" shall be computed by multiplying pupils with special educational needs by twenty-five percentum, with the result rounded up to the next whole number. For the purposes of the computation of additional aidable pupil units for inclusion in total wealth pupil units, the computations made pursuant to this paragraph shall include only resident pupils.

f. "Expense per pupil" shall mean approved operating expense for the year prior to the base year divided by the sum, computed using year prior to the base year pupil counts, of the total aidable pupil units

plus weighted pupils with [~~handicapping conditions~~] **disabilities, provided that for the two thousand six--two thousand seven school year and prior school years, total aidable pupil units plus weighted pupils with handicapping conditions shall be used in such computation**. Expense per pupil for each borough in the city school district of the city of New York shall be the expense per pupil of the entire city school district. [~~**For aid payable in the nineteen hundred ninety-eight--nineteen-nine school year, expense per pupil for the city school district of the city of Buffalo shall be five thousand nine hundred eighty-five.**~~]

g. "Summer session pupils" shall mean those pupils attending approved programs of instruction operated by the district during the months of July and August in accordance with the regulations promulgated by the commissioner.

i. [~~**"Pupil wealth ratio" shall mean the number computed to three decimals without rounding obtained when actual valuation of a school district divided by the total wealth pupil units is divided by the statewide average actual valuation per total wealth pupil unit as computed by the commissioner in accordance with the provisions of this section. Such statewide average actual valuation per total wealth pupil unit shall be established each year by the commissioner using the latest single year actual valuation computed under paragraph c of this subdivision. Such statewide average shall be transmitted to the school districts. Such statewide average shall be rounded to the nearest hundred and shall include the actual valuation and total wealth pupil units of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data**~~] **"Weighted pupils with disabilities" shall be computed as follows:**

(1) "Pupils with disabilities" shall mean pupils of school age who are identified as students with disabilities pursuant to article eighty-nine of this chapter and the regulations of the commissioner and who receive special education services or attend special education programs which meet criteria established by the commissioner, operated by a school district eligible for total foundation aid pursuant to this section or by a board of cooperative educational services, whether or not the school district is a component of such board.

(2) "Declassification pupils" shall mean pupils enrolled in a full-time regular education program, who were enrolled in a special education program in the prior year. Services to pupils shall be provided on a regular basis and may include, but not be limited to psychological, social work, speech and language services and noncareer counseling services provided by qualified professional personnel as defined in regulations of the commissioner. Services for teachers of such pupils may include the assistance of teacher aides or consultation with appropriate personnel. When a committee on special education determines that a pupil no longer needs special education services and is ready for a full-time regular education program, such committee shall identify and recommend the appropriate declassification support services for the first year in the regular education program.

(3) "Weighted pupils with disabilities" shall mean the attendance, as defined in the regulations of the commissioner, of pupils with disabilities who have been determined by a school district committee on special education to require any of the following types and levels of programs or services specified in this subparagraph, and who receive such programs and services from the school district of attendance during the

base year, multiplied by a special services weighting determined as follows:

(i) for placement for sixty per centum or more of the school day in a special class, or home or hospital instruction for a period of more than sixty days, or special services or programs for more than sixty per centum of the school day, the special services weighting shall be one hundred seventy percent;

(ii) for placement for twenty per centum or more of the school week in a resource room or special services or programs including related services required for twenty per centum or more of the school week, or in the case of pupils in grades seven through twelve or a multi-level middle school program as defined by the commissioner or in the case of pupils in grades four through six in an elementary school operating on a period basis, the equivalent of five periods per week, but not less than the equivalent of one hundred eighty minutes in a resource room or in other special services or programs including related services, or for at least two hours per week of direct or indirect consultant teacher services, in accordance with regulations of the commissioner adopted for such purpose, the special services weighting shall be ninety percent.

(4) "Weighted foundation pupils with disabilities" shall mean the sum of

(i) the full-time equivalent enrollment, as defined in the regulations of the commissioner, of pupils with disabilities who have been determined by a school district committee on special education to require any of the following types and levels of programs or services specified in this subparagraph, and who receive such programs and services from the school district of attendance during the base year, multiplied by a special services weighting based on an analysis of costs of special education and general education in successful school districts, provided that the weighting for the two thousand seven--two thousand eight school year and thereafter shall be one and forty-one hundredths (1.41):

(A) placement for sixty per centum or more of the school day in a special class, or

(B) home or hospital instruction for a period of more than sixty days, or

(C) special services or programs for more than sixty per centum of the school day, or

(D) placement for twenty per centum or more of the school week in a resource room or to require special services or programs including related services for twenty per centum or more of the school week, or in the case of pupils in grades seven through twelve or a multi-level middle school program as defined by the commissioner or in the case of pupils in grades four through six in an elementary school operating on a period basis, the equivalent of five periods per week, but not less than the equivalent of one hundred eighty minutes in a resource room or in other special services or programs including related services, or

(E) at least two hours per week of direct or indirect consultant teacher services, in accordance with regulations of the commissioner adopted for such purpose, plus

(ii) the full time equivalent enrollment of declassification pupils multiplied by a declassification weighting of five-tenths (0.5).

j. [~~"Comprehensive operating aids base" for the purposes of this section (i) for aid payable in the nineteen hundred ninety-three--nineteen-four school year, shall mean: the net total amount a district was eligible to receive during the base year under the provisions of subdivisions twelve, thirteen, fifteen, sixteen, twenty-two, twenty-three,~~

~~twenty-six, and thirty-two of this section and the adjustment in aid due to the selection made pursuant to subdivision eighteen of this section, except that for aid payable in the nineteen hundred ninety-three--ninety-four school year, such term shall mean the sum of the aids payable in the nineteen hundred ninety-two--ninety-three school year pursuant to (1) the following subdivisions of section thirty-six hundred one-a: twelve or fifteen, whichever applies, and thirteen, or, in the alternative, eighteen; sixteen; twenty; twenty-two; twenty-three; twenty-five; twenty-six; twenty-nine; thirty; thirty-two; thirty-three; and thirty-four; (2) an amount equal to the product of transportation expense approved for aid in the nineteen hundred ninety-two--ninety-three school year in accordance with subdivision seven of section thirty-six hundred one-a of this article multiplied by the remainder of nine-tenths minus the building aid ratio computed for aid payable in the nineteen hundred ninety-two--ninety-three school year pursuant to subdivision three of section thirty-six hundred one-a of this article; and (3) any other adjustments pursuant to paragraphs k, l and m of subdivision one of section thirty-six hundred nine of this article, and except that the comprehensive operating aids base for aid payable in the nineteen hundred ninety-three--ninety-four school year, and for aid calculations for subsequent school years based on aid payable in such school year, shall be deemed final and not subject to change on or after July first, nineteen hundred ninety-six; whereas:~~

~~(ii) for aid payable in the nineteen hundred ninety-four--ninety-five and nineteen hundred ninety-five--ninety-six school years, such term shall mean the net total amount a district was eligible to receive during the base year under the provisions of subdivisions twelve, fifteen, sixteen, twenty-two, twenty-three, twenty-six, and thirty-two of this section and the adjustment in aid due to the selection made pursuant to subdivision eighteen of this section, except that: (A) the comprehensive operating aids base for aid payable in the nineteen hundred ninety-four--ninety-five school year, and for aid calculations for subsequent school years based on aid payable in such school year, shall be deemed final and not subject to change on or after July first, nineteen hundred ninety-eight, and (B) the comprehensive operating aids base for aid payable in the nineteen hundred ninety-five--ninety-six school year, and for aid calculations for subsequent school years based on aid payable in such school year, shall be deemed final and not subject to change on or after July first, nineteen hundred ninety-nine;~~

~~(iii) for aid payable in the nineteen hundred ninety-six--ninety-seven school year, such term shall mean the net total amount a district was eligible to receive during the base year under the provisions of clause (i) of paragraph a of subdivision twelve, and subdivisions fifteen, sixteen, twenty-two, twenty-three and twenty-six of this section and the adjustment in aid due to the selection made pursuant to subdivision eighteen of this section, except that in a city school district in a city with a population of more than one million, for aid payable in the nineteen hundred ninety-six--ninety-seven school year, the comprehensive operating aids base shall be increased by the amount by which growth aid for aid payable in the nineteen hundred ninety-four--ninety-five school year calculated pursuant to subdivision thirteen of this section notwithstanding section five hundred thirty-eight of chapter one hundred seventy of the laws of nineteen hundred ninety-four exceeds growth aid calculated for such school year, and except that the comprehensive operating aids base for aid payable in the nineteen hundred ninety-six--ninety-seven school year, and for aid calculations for subsequent school~~

~~years based on aid payable in the such school year, shall be deemed final and not subject to change on or after July first, two thousand;~~

~~(iv) for aid payable in the nineteen hundred ninety-seven--ninety-eight school year, such term shall mean the net total amount a district was eligible to receive during the base year under the provisions of clause (i) of paragraph a of subdivision twelve, and subdivisions fifteen, sixteen, twenty-two, and twenty-three of this section and the adjustment in aid due to the selection made pursuant to subdivision eighteen of this section, except that the comprehensive operating aids base for aid payable in the nineteen hundred ninety-seven--ninety-eight school year, and for aid calculations for subsequent school years based on aid payable in the such school year, shall be deemed final and not subject to change on or after July first, two thousand; and~~

~~(v) for aid payable in the nineteen hundred ninety-eight--ninety-nine school year and thereafter, such term shall mean the net total amount a district was eligible to receive during the base year under the provisions of clause (i) of paragraph a of subdivision twelve, and subdivisions fifteen, and sixteen of this section and the adjustment in aid due to the selection made pursuant to subdivision eighteen of this section, except that the comprehensive operating aids base for aid payable in the nineteen hundred ninety-eight--ninety-nine school year and thereafter, and for aid calculations for subsequent school years based on aid payable in such school years, shall be deemed final and not subject to change on or after July first of the school year following the last school year in which the commissioner may last accept and certify for payment any additional claim for such school year pursuant to paragraph a of subdivision five of section thirty-six hundred four of this article.~~] **"Total foundation aid base" for the purposes of this section (i) for aid payable in the two thousand seven--two thousand eight school year, the total foundation aid base shall equal the total amount a district was eligible to receive in the base year for**

(1) flex aid in an amount equal to the sum of (A) the amount set forth for each school district as "FLEX AID" under the heading "2005-06 Base Year Aids" in the school aid computer listing produced by the commissioner in support of the executive budget request for the 2006--2007 school year and entitled "BT131-6", and (B) the additional FLEX aid equivalent as computed pursuant to chapter fifty-eight of the laws of two thousand six;

(2) the extraordinary needs equivalent aid apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six, as amended by chapter sixty-one of the laws of two thousand six;

(3) an amount equal to the amount such district received for early grade class size reduction grants pursuant to or in lieu of subdivision thirty-seven of this section, provided that such amount computed and payable as of September one of the school year immediately following the school year for which such aid is claimed shall be deemed final and not subject to change;

(4) the growth aid equivalent apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six;

(5) the enrollment adjustment aid apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six;

(6) the reorganization incentive operating aid equivalent computed pursuant to chapter fifty-eight of the laws of two thousand six;

(7) the tax limitation aid equivalent computed pursuant to chapter fifty-eight of the laws of two thousand six;

(8) the high tax aid apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six, as amended by chapter sixty-one of the laws of two thousand six;

(9) the additional limited English proficiency aid equivalent apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six, as amended by chapter sixty-one of the laws of two thousand six;

(10) the positive difference of the public excess cost aid equivalent apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six, minus the amount computed under paragraph five of subdivision nineteen of this section;

(11) teacher support payments made in the 2006--2007 school year as follows: to the city school district of the city of New York, sixty-two million seven hundred seven thousand dollars; to the Buffalo city school district, one million, seven hundred forty-one thousand dollars; to the Rochester city school district, one million, seventy-six thousand dollars; to the Syracuse city school district, eight hundred nine thousand dollars; and to the Yonkers city school district, one million, one hundred forty-seven thousand dollars;

(12) an amount equal to the amount such district was eligible to receive pursuant to or in lieu of subdivision thirty-one-a of this section;

(13) an amount equal to a share of three million dollars in the same proportion as such district's share of Fort Drum school district grants for the 2005--2006 school year, and additional amounts provided to the Indian River central school district, the Watertown city school district and the Carthage central school district pursuant to chapter fifty-three of the laws of two thousand six to account for an increase in student enrollment as a result of the expansion of Fort Drum;

(14) payments made in the 2006--2007 school year for magnet school grants pursuant to or in lieu of subdivision five of section thirty-six hundred forty-one of this article, as follows: to the Albany city school district, three million, five hundred fifty thousand dollars; to the Amsterdam city school district, eight hundred thousand dollars; to the Beacon city school district, five hundred sixty-six thousand dollars; to the Buffalo city school district, twenty-one million twenty-five thousand dollars; to the Freeport union free school district, four hundred thousand dollars; to the Greenburgh central school district, three hundred thousand dollars; to the Hudson city school district, four hundred thousand dollars; to the Middletown city school district, four hundred thousand dollars; to the Mount Vernon city school district, two million dollars; to the New Rochelle city school district, one million, four hundred ten thousand dollars; to the city school district of the city of New York, forty-eight million, one hundred seventy-five thousand dollars; to the Newburgh city school district, four million, six hundred forty-five thousand dollars; to the Niagara Falls city school district, six hundred thousand dollars; to the Peekskill city school district, two hundred thousand dollars; to the Port Chester city school district, one million, one hundred fifty thousand dollars; to the Poughkeepsie city school district, two million, four hundred seventy-five thousand dollars; to the Rochester city school district, fifteen million dollars; to the Schenectady city school district, one million, eight hundred thousand dollars; to the Syracuse city school district, thirteen million dollars; to the Utica city school district, two million dollars; to the White Plains city school district, nine hundred thousand dollars; to the

Yonkers city school district, forty-nine million, five hundred thousand dollars;

(15) an amount equal to the amount received by such district in the 2005--2006 school year pursuant to subdivision six of section thirty-six hundred forty-one of this article;

(16) an amount equal to the amount received by such district in the 2005--2006 school year pursuant to subdivision seven of section thirty-six hundred forty-one of this article;

(17) sound basic education aid equal to the sum of (A) the district's base year apportionment for sound basic education aid set forth for each school district as "2005-2006 Sound Basic Education" in the school aid computer listing produced by the commissioner in support of the executive budget request for the 2006--2007 school year and entitled "BT131-6" plus (B) the product of three hundred seventy-five million dollars ($375,000,000) multiplied by the district's SBE ratio. The "SBE ratio" shall be equal to the quotient of the district's apportionment for sound basic education aid set forth for each school district as "2005-06 Sound Basic Education" in the school aid computer listing produced by the commissioner in support of the executive budget request for the 2006--2007 school year and entitled "BT131-6", divided by the sum of such apportionments set forth for all school districts as "2005-06 Sound Basic Education" in such school aid computer listing entitled "BT131-6".

(18) the net tuition adjustment computed for the 2006--07 school year pursuant to or in lieu of paragraph g of subdivision two of this section.

(ii) For aid payable in the two thousand eight--two thousand nine school year and thereafter, the foundation operating aid base shall equal the total amount a district was eligible to receive in the base year pursuant to paragraph b of subdivision three of this section.

k. [~~(1) For aid payable in the nineteen hundred ninety-six--ninety-seven school year, "alternate pupil wealth ratio" shall mean the number computed to three decimals without rounding obtained when the adjusted gross income of a school district for the calendar year prior to the calendar year in which the base year began divided by the total wealth pupil units of such district is divided by the statewide adjusted gross income per total wealth pupil unit. Such statewide average gross income per pupil shall be established each year by the commissioner and shall be transmitted to school districts by May first. For the purposes of this paragraph, the income data shall be computed in accordance with regulations adopted by the commissioner of taxation and finance based upon personal income tax returns for the calendar year two years prior to the calendar year in which the current school year commences, as reported to the commissioner in February of the base year, including the results of the temporary school district address review validation and correction process or, commencing with aid payable in the nineteen hundred ninety-four--ninety-five school year, the results of the permanent computerized statewide school district address match and income verification system. The income of the city school district of the city of New York shall be the sum of the income of the boroughs of the city. Such statewide average shall be rounded to the nearest hundred and shall include the adjusted gross income and total wealth pupil units of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data. The adjusted gross income of a central~~

~~high school district shall equal the sum of the adjusted gross income of each of its component school districts.~~

~~(2) For aid payable in the nineteen hundred ninety-seven--ninety-eight school year and thereafter, "alternate pupil wealth ratio" shall mean the number computed to three decimals without rounding obtained when the adjusted gross income of a school district for the calendar year two years prior to the calendar year in which the base year began divided by the total wealth pupil units of such district is divided by the statewide adjusted gross income per total wealth pupil unit. Such statewide average gross income per pupil shall be established each year by the commissioner and shall be transmitted to school districts. For the purposes of this paragraph, the income data shall be computed in accordance with regulations adopted by the commissioner of taxation and finance based upon personal income tax returns for the calendar year three years prior to the calendar year in which the current school year commences, as reported to the commissioner by September of the base year, including the results of the temporary school district address review validation and correction process or, commencing with aid payable in the nineteen hundred ninety-four--ninety-five school year, the results of the permanent computerized statewide school district address match and income verification system. The income of the city school district of the city of New York shall be the sum of the income of the boroughs of the city. Such statewide average shall be rounded to the nearest hundred and shall include the adjusted gross income and total wealth pupil units of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data. The adjusted gross income of a central high school district shall equal the sum of the adjusted gross income of each of its component school districts.~~

~~l. "Combined wealth ratio" shall mean the number computed to three decimals without rounding obtained when fifty per centum of the pupil wealth ratio is added to fifty per centum of the alternate pupil wealth ratio.~~

~~m.~~] "Attendance ratio" shall mean the number computed to four decimals without rounding when the aggregate days attendance is divided by the possible aggregate attendance of all pupils in attendance in the district, as computed for each school district by the commissioner by June first of the year following the attendance year.

l. "Average daily membership" shall mean the possible aggregate attendance of all pupils in attendance in a public school of the school district in kindergarten through grade twelve, or equivalent ungraded programs, including possible aggregate attendance for such pupils receiving homebound instruction, including pupils receiving instruction through a two-way telephone communication system, with the possible aggregate attendance of such pupils in one-half day kindergartens multiplied by one-half, divided by the number of days the district school was in session as provided in this section. The full time equivalent enrollment of pupils with disabilities attending under the provisions of paragraph c of subdivision two of section forty-four hundred one of this chapter shall be added to average daily membership. Average daily membership shall include the equivalent attendance of the school district, as computed pursuant to paragraph d of this subdivision. In any instance where a pupil is a resident of another state or an Indian pupil is a resident of any portion of a reservation located wholly or partly within the borders of the state pursuant to subdivision four of

section forty-one hundred one of this chapter or a pupil is living on federally owned land or property, such pupil's possible aggregate attendance shall be counted as part of the possible aggregate attendance of the school district in which such pupil is enrolled.

n. (1) "Enrollment" shall mean the unduplicated count of all children registered to receive educational services in grades kindergarten through twelve, including children in ungraded programs, as registered on the date prior to November first that is specified by the commissioner as the enrollment reporting date for the school district or nonpublic school, as reported to the commissioner.

(2) "Public school district enrollment" shall mean the sum of: (1) the number of children on a regular enrollment register of a public school district on such date; (2) the number of children eligible to receive home instruction in the school district on such date; (3) the number of children for whom equivalent attendance must be computed pursuant to this subdivision on such date; (4) the number of children with [~~handicapping conditions~~] **disabilities** who are residents of such district who are registered on such date to attend programs under the provisions of paragraph c of subdivision two of section forty-four hundred one of this chapter; (5) the number of children eligible to receive educational services on such date but not claimed for aid pursuant to subdivision seven of section thirty-two hundred two of this chapter; and (6) the number of children registered on such date to attend programs (i) pursuant to subdivision two of section three hundred fifty-five of this chapter or (ii) pursuant to an agreement between the city school district of the city of New York and Hunter College pursuant to section sixty-two hundred sixteen of this chapter.

(3) "Nonpublic school enrollment" shall mean the number of children on a regular enrollment register of a nonpublic school meeting the compulsory attendance law, excluding any child counted as part of the enrollment of a public school district.

(4) "Resident public school district enrollment" shall be the public school district enrollment less the public school district enrollment of nonresident pupils attending public schools in the district, plus the public school district enrollment of pupils resident in the district but attending public schools in another district or state plus the public school district enrollment of pupils resident in the district but attending full-time a school operated by a board of cooperative educational services or a county vocational education and extension board. Indian pupils who are residents of any portion of a reservation located wholly or partly within the borders of the state pursuant to subdivision four of section forty-one hundred one of this chapter and are attending public school, or pupils living on the United States military reservation at West Point attending public school, shall be deemed to be resident pupils of the district providing such school, for purposes of this paragraph. Where a school district has entered into a contract with the state university pursuant to subdivision two of section three hundred fifty-five of this chapter under which the school district makes payments in the nature of tuition for the education of certain children residing in the district, such children for whom such tuition payments are made shall be deemed to be resident pupils of such district for the purposes of this paragraph. No student shall be counted more than once, except that, in determining the resident public school district enrollment of a component school district of a central high school district the resident public school district enrollment of high school pupils residing in such component district and attending the central high

school shall be included, and in determining the resident public school district enrollment of a central high school district the resident public school district enrollment of elementary school pupils residing in such central high school district and attending a component district of the central high school district shall be included.

(5) "Resident nonpublic school district enrollment" shall be the nonpublic school district enrollment less the nonpublic school district enrollment of nonresident pupils attending nonpublic schools in the district, plus the nonpublic school district enrollment of pupils resident in the district but attending nonpublic schools in another district of the state.

(6) "Additional public school enrollment" shall mean resident students with disabilities placed by public school districts in approved private schools, the New York state school for the blind at Batavia, or the New York state school for the deaf at Rome and resident students placed in schools subject to the provisions of chapter five hundred sixty-three of the laws of nineteen hundred eighty as amended.

(7) In determining enrollment pursuant to subparagraphs two, three, four, five and six of this paragraph for central high school districts and all school districts located within the boundaries of a central high school district, for the purposes of apportionments payable pursuant to subdivision six of section seven hundred one, subdivision four of section seven hundred eleven and subdivision four of section seven hundred fifty-one of this chapter, and subdivision thirteen of this section, and for the purposes of computing the lunch count pursuant to paragraph q of this subdivision, the district sharing ratio pursuant to subparagraph eight of paragraph a of subdivision ten of section thirty-six hundred forty-one of this article, and the school district basic contribution pursuant to subdivision eight of section forty-four hundred one of this chapter, only those children in the grade levels maintained by a central high school district shall be included in the enrollment used to apportion aid to such central high school district and only those children of the grade levels maintained by a component school district of a central high school district shall be included in the public school district enrollment of such component school district.

o. "Limited English proficient count" shall mean the number of pupils served in the base year in programs for pupils with limited English proficiency approved by the commissioner pursuant to the provisions of this chapter and in accordance with regulations adopted for such purpose.

p. "Percent of eligible applicants for the free and reduced price lunch program" shall mean the quotient of (i) the number of pupils in kindergarten through grade six attending the public schools of the district who have applications on file or who are listed on a direct certification letter confirming their eligibility for participation in the state and federally funded free and reduced price school lunch program on the date enrollment was counted in accordance with this subdivision for the year prior to the base year[~~, except that such count shall be simply as of October of the year prior to the base year for aid payable in the nineteen hundred ninety-three--ninety-four and nineteen hundred ninety-four--ninety-five school years~~], divided by (ii) the number of pupils in kindergarten through grade six on a regular enrollment register of a public school district on the date enrollment was counted in accordance with this subdivision for the year prior to the base year, computed to four decimals without rounding, and multiplied by one hundred to be expressed as a percent to two decimals. For central

high school districts, such percent shall be computed using the sum of the eligible applicants and enrollment of the component districts of the central high school district[~~; for any other school district not operating a school lunch program in the applicable year for its kindergarten through grade six pupils, the commissioner shall use the district's percent of pupils with compensatory educational needs as the percent of eligible applicants for the free and reduced price lunch program~~].

q. **"Poverty count" shall mean the sum of the product of the lunch count multiplied by sixty-five percent, plus the product of the census count multiplied by sixty-five percent, where:**

(i) "Lunch count" shall mean the product of the public school enrollment of the school district on the date enrollment was counted in accordance with this subdivision for the base year multiplied by the **quotient of the sum of the** percent of eligible applicants for the free and reduced price lunch program as defined in this subdivision **computed for the current year, plus such percent of eligible applicants for the free and reduced price lunch program computed for the base year, plus such percent of eligible applicants for the free and reduced price lunch program computed for the year prior to the base year, divided by three; and**

(ii) "Census count" shall mean the product of the public school enrollment of the school district on the date enrollment was counted in accordance with this subdivision for the base year multiplied by the quotient of the number of persons aged five to seventeen within the school district, based on the most recent decennial census as tabulated by the National Center on Education Statistics, who were enrolled in public schools and whose families had incomes below the poverty level, divided by the total number of persons aged five to seventeen within the school district, based on such decennial census, who were enrolled in public schools, computed to four decimals without rounding.

r. "Sparsity count", for districts operating a kindergarten through grade twelve school program, shall mean the product of (i) the base year public school enrollment of the district and (ii) the quotient, computed to three decimals without rounding, of the positive remainder of twenty-five minus the enrollment per square mile divided by fifty and nine tenths, but not less than zero. Enrollment per square mile shall be the quotient, computed to two decimals without rounding, of the public school enrollment of the school district on the date enrollment was counted in accordance with this subdivision for the base year divided by the square miles of the district, as determined by the commissioner.

s. "Extraordinary needs count" shall mean the sum of the **product of the** limited English proficiency count **multiplied by fifty percent, plus**, the [~~lunch~~] **poverty** count and the sparsity count.

t. [~~**"Percentage of pupils with compensatory educational needs" shall be based on the following tests: the third and sixth grade reading and math tests administered in spring of the second year prior to the base year. Such percentage shall be calculated as follows:**~~

~~**(i) determine the number of pupils tested who scored below the statewide reference point as determined by the commissioner on each test administered pursuant to this subparagraph, plus pupils, other than pupils with handicapping conditions and pupils with limited English proficiency as defined by the commissioner who are exempt from taking such tests, provided, however, that a district employing eight or more teachers in such years but not operating each grade may use the percentage computed pursuant to this paragraph for the district which in such**~~

~~years enrolled the greatest number of pupils in such grade from such district;~~

~~(ii) divide the sum of such numbers by the number of such pupils who took each of such tests, plus pupils, other than pupils with handicapping conditions and pupils with limited English proficiency as defined by the commissioner who are exempt from taking such tests, provided, however, that a district which in any of the applicable school years did not maintain a home school or employed fewer than eight teachers, and which in the base year employed eight or more teachers, may use the scores in a later test as designated by the commissioner for the purposes of this paragraph;~~

~~(iii) express the result as a percentage carried to one decimal place without rounding; and~~

~~(iv) for the purposes of the computation made pursuant to this subparagraph, pupils attending campus schools of the state university shall be included in the numbers of pupils in the district in which they reside. The percentage of such pupils in component districts shall be used in the case of central high school districts. The commissioner shall make adjustments for differences in tests and test administration in accordance with regulations adopted for such purposes.~~] The "approved operating expense" for the apportionments to any school district hereunder shall mean the amount computed as follows: The apportionment to any school district for operating expense shall be based upon the total expenditures from its general fund and from its capital fund and from its risk retention fund for purposes of employee benefit claims related to salaries paid from the general fund, and for any city school districts with a population of more than one hundred twenty-five thousand inhabitants its expenditures from the special aid fund of grant moneys for improving pupil performance and categorical aid for special reading programs as provided in the aid to localities budget during the applicable year as approved by the commissioner, and in accordance with the classification of expenditures in use by the commissioner for the reporting by school districts of receipts, expenditures and other financial data. For the purpose of this paragraph operating expense shall be defined as total cash expenditures during the applicable year, but shall exclude: (1) any balances and transfers; (2) any payments for transportation of pupils to and from school during the regular school year inclusive of capital outlays and debt service therefor; (2-a) a portion of any payments for transportation of pupils to and from district operated summer school programs pursuant to subdivision six of section thirty-six hundred twenty-two-a of this article, inclusive of capital outlays and debt service therefor, equal to the product of such expenditures multiplied by the quotient of the total apportionment after the proration, if any, required by such subdivision six of such section divided by the total apportionment prior to such proration; (3) any payments for capital outlay and debt service for school building purposes, provided, however, that in the case of a school district which has entered into a contract with state university pursuant to paragraph o of subdivision two of section three hundred fifty-five of this chapter, under which the school district makes payments to state university on account of capital outlay relating to certain children residing in such school district, such payments shall not be so excluded; (4) any payments for cafeteria or school lunch programs; (5) any proceeds of short term borrowings in the general fund and any payments from the proceeds of the sale of obligations in the capital fund; (6) any cash receipts which reduce the cost of an item when applied against the

expenditure therefor, except gifts, donations and earned interest and any refunds made; (7) any payments made to boards of cooperative educational services for purposes or programs for which an apportionment is paid pursuant to other sections of this chapter, except that payments attributable to eligible pupils with disabilities and ineligible pupils residing in noncomponent districts shall be included in operating expense; (8) any tuition payments made to other school districts inclusive of payments made to a central high school district by one of its component school districts; (9) any apportionment or payment received from the state for experimental or special programs paid under provisions other than those found in this section and other than any apportionments or payments received from the state by the city school district of the city of Yonkers for the purpose of funding an educational improvement program pursuant to a court order and other than any other state grants in aid identified by the commissioner for general use as specified by the board of education pursuant to subdivision two of section seventeen hundred eighteen of this chapter; (10) any funds received from the federal government except the federal share of medicaid subject to the provisions of section thirty-six hundred nine-a of this part and except Impact Aid funds received pursuant to sections two and six of Public Law eighty-one-eight hundred seventy-four (PL 81-874) or any law superseding such law in any such district which received aid pursuant to both such sections; provided further, however, that there shall be excluded from such federal funds or other apportionments any payments from such funds already deducted pursuant to this paragraph; (11) any payments made for which an apportionment is disallowed pursuant to regulations of the commissioner; (12) any expenditures made for accounting, tabulation, or computer equipment, in excess of ten thousand dollars unless such expenditures shall have been specifically approved by the commissioner; (13) any rentals received pursuant to the provisions of section four hundred three-a of this chapter; (14) any rentals or other annual payments received pursuant to the provisions of section four hundred three-b of this chapter; (15) any expenditures made for persons twenty-one years of age or over attending employment preparation education programs pursuant to subdivision eleven of this section; (16) any tuition payments made pursuant to a contract under the provisions of paragraphs e, f, g, h, i and l of subdivision two of section forty-four hundred one of this chapter or any tuition payments on behalf of pupils attending a state school under paragraph d of such subdivision; and (17) in any year in which expenditures are made to the New York state teachers' retirement system or the New York state and local employees' retirement system for both the prior school year and the current school year, any expenditures made to such retirement systems and recorded in the school year prior to the school year in which such obligations are paid.

u. [~~"Pupils with compensatory educational needs" shall be computed by multiplying the percentage of pupils with compensatory educational needs by the district's base year public school enrollment.~~

~~v. "Concentration factor" shall be computed by adding to one the quotient of (i) the positive remainder resulting when seven hundred forty-five thousandths is subtracted from the quotient of the extraordinary needs count divided by the district's base year public school enrollment divided by (ii) three hundred twenty thousandths; provided, however, that such factor shall not be less than one.~~] "Instructional expense" shall mean the sum of all year prior to the base year expenditures related to the instructional program of the district, as defined

in regulations of the commissioner, including the cost of fringe benefits paid by such district for the instructional staff of the district.

w. "Extraordinary needs [~~factor~~] **percent**" shall mean [~~the sum of~~

~~(i) eleven percent;~~

~~(ii) for any city school district in a city with a population of more than two hundred fifty thousand inhabitants and less than one million inhabitants according to the latest federal census, two hundred fifty-four ten-thousandths (0.0254);~~

~~(iii) for any city school district in a city with a population of more than two hundred ten thousand inhabitants and less than two hundred fifty thousand inhabitants according to the latest federal census, twenty-seven thousandths (0.027);~~

~~(iv) for any city school district in a city with a population of more than one hundred sixty thousand inhabitants and less than two hundred ten thousand inhabitants according to the latest federal census, twenty-two thousandths (0.022);~~

~~(v) for any city school district in a city with a population of more than one hundred thousand inhabitants and less than one hundred sixty thousand inhabitants according to the latest federal census, forty-one thousandths (0.041);~~

~~(vi) for districts for which the base year public school district enrollment per square mile year is greater than fifteen hundred, five thousand three hundred fourteen hundred-thousandths (0.05314); and~~

~~(vii) for districts for which the quotient of the extraordinary needs county divided by the district's base year public school district enrollment is greater than seven hundred ninety-nine thousandths (0.799), three hundred sixty-two ten-thousandths (0.0362)~~] **the quotient of the extraordinary needs count for the base year, calculated pursuant to paragraph s of this subdivision, divided by the public school district enrollment for the base year, calculated pursuant to subparagraph two of paragraph n of this subdivision**.

x. "Enrollment index" shall be computed by dividing the public school enrollment for the current year by public school enrollment for the base year, both as defined in paragraph n of this subdivision, with the result carried to three places without rounding.

[~~y. (i) "Public excess cost aid base," for the purposes of this section, shall mean:~~

~~(a) for aid payable in the two thousand--two thousand one school year, the aid selected pursuant to paragraph six of subdivision nineteen of this section in the base year;~~

~~(b) for aid payable in the two thousand one--two thousand two school year, the product of the aid selected pursuant to subparagraph a of paragraph six of subdivision nineteen of this section in the base year and nine hundred ninety-one thousandths;~~

~~(c) for aid payable in the two thousand two--two thousand three school year, the product of the amount set forth for each school district as "Excess Cost - Public" under the heading "2000-01 Base Year Aids" in the school aid computer listing produced by the commissioner in support of the executive budget request for the two thousand one--two thousand two school year and entitled "BT032-1", and ninety-five hundredths;~~

~~(d) for aid payable in the two thousand three--two thousand four, two thousand four--two thousand five and two thousand six--two thousand seven school years, the product of the aid selected pursuant to clause one of subparagraph b of paragraph six of subdivision nineteen of this section in the base year and ninety-five hundredths.~~

~~(ii) The public excess cost aid base for aid payable in the nineteen hundred ninety-three--ninety-four school year, and for aid calculations for subsequent school years based on aid payable in such school year, shall be deemed final and not subject to change on or after July first, nineteen hundred ninety-six; the public excess cost aid base for aid payable in the nineteen hundred ninety-four--ninety-five school year, and for aid calculations for subsequent school years based on aid payable in such school year, shall be deemed final and not subject to change on or after July first, nineteen hundred ninety-eight; the public excess cost aid base for aid payable in the nineteen hundred ninety-five--ninety-six school year, and for aid calculations for subsequent school years based on aid payable in such school year, shall be deemed final and not subject to change on or after July first, nineteen hundred ninety-nine; the public excess cost aid base for aid payable in the nineteen hundred ninety-six--ninety-seven and nineteen hundred ninety-seven--ninety-eight school years, and for aid calculations for subsequent school years based on aid payable in such school years, shall be deemed final and not subject to change on or after July first, two thousand; and the public excess cost aid base for aid payable in the nineteen hundred ninety-eight--ninety-nine school year and thereafter, and for aid calculations for subsequent school years based on aid payable in such school years, shall be deemed final and not subject to change on or after July first of the school year following the last school year in which the commissioner may last accept and certify for payment any additional claim for such school year pursuant to paragraph a of subdivision five of section thirty-six hundred four of this article.~~

~~z. (i) "Extraordinary needs aid base," for the purposes of this section, shall mean the aid selected pursuant to paragraph e of subdivision twelve of this section in the base year except that for aid payable in the two thousand two--two thousand three school year, "extraordinary needs aid base" shall mean the aid selected pursuant to paragraph e of subdivision twelve of this section in the year prior to the base year. (ii) The extraordinary needs aid base for aid payable in the nineteen hundred ninety-six--ninety-seven and nineteen hundred ninety-seven--ninety-eight school years, and for aid calculations for subsequent school years based on aid payable in such school years, shall be deemed final and not subject to change on or after July first, two thousand; and the extraordinary needs aid base for aid payable in the nineteen hundred ninety-eight--ninety-nine school year and thereafter, and for aid calculations for subsequent school years based on aid payable in such school years, shall be deemed final and not subject to change on or after July first of the school year following the last school year in which the commissioner may last accept and certify for payment any additional claim for such school year pursuant to paragraph a of subdivision five of section thirty-six hundred four of this article.~~

~~aa.~~] **y.** "School tax relief aid" shall mean state aid payable to a school district representing tax savings duly provided by the school district pursuant to section thirteen hundred six-a of the real property tax law that is claimed by the school district and certified by the state board of real property services pursuant to subdivision three of section thirteen hundred six-a of the real property tax law.

§ 12. Subparagraph (i) of paragraph y of subdivision 1 of section 3602 of the education law, as added by chapter 474 of the laws of 1996, is REPEALED.

§ 13. Subdivisions 2, 2-a and 2-b of section 3602 of the education law, as added by chapter 57 of the laws of 1993, paragraph c of subdivi-

sion 2 and paragraph c of subdivision 2-a as amended by chapter 532 of the laws of 1997, are amended and three new subdivisions 3, 4 and 5 are added to read as follows:

2. Computation of [~~resident weighted average daily attendance~~] **pupil counts and related factors. a. Computation of resident weighted average daily attendance**. For purposes of this section weighted average daily attendance of a school district for any school year shall be computed as follows:

[~~a.~~] **(1)** Weighted average daily attendance shall be determined by using the average daily attendance of public school pupils in a full-day kindergarten and grades one through six as the basic unit, with the attendance of such pupils in one-half day kindergartens measured at one-half of such basic unit and the attendance of such pupils in grades seven through twelve measured at one and one-quarter of such basic unit. The sum of all such units of attendance shall be the weighted average daily attendance.

[~~b.~~] **(2)** In computing such attendance, the school district shall [~~(1)~~] **(i)** determine the number of religious holidays which fall on a school day within a school year according to regulations established by the commissioner, such religious holidays to be duly recognized as such for purposes of this section by duly adopted resolution of the board of education; [~~(2)~~] **(ii)** deduct the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; [~~(3)~~] **(iii)** deduct such religious holidays from the total number of days of session, by grade level; [~~(4)~~] **(iv)** compute the weighted average daily attendance for the school year.

[~~c.~~] **(3)** In any instance where a pupil is a resident of another state or an Indian pupil is a resident of any portion of a reservation located wholly or partly within the borders of the state pursuant to subdivision four of section forty-one hundred one of this chapter or a pupil is living on federally owned land or property, such pupil's attendance shall be counted as part of the weighted average daily attendance of the school district in which such pupil is enrolled.

[~~d.~~] **(4)** Resident weighted average daily attendance for purposes of determining the aid ratio of a school district for any school year shall be the weighted average daily attendance for the school year immediately preceding the base year, less the weighted average daily attendance of nonresident pupils attending public schools in the district for such school year, plus the weighted average daily attendance of pupils resident in the district but attending public schools in another district or state plus the weighted average daily attendance of pupils resident in the district but attending full-time a school operated by a board of cooperative educational services or a county vocational education and extension board for such school year. The attendance of nonresident pupils attending public school in the district and resident pupils attending such schools outside of the district shall be determined by applying to the number of such pupils registered during the school year in each case the ratio of aggregate days attendance to the possible aggregate days attendance of all pupils in attendance in the district. Indian pupils of a reservation attending public school, or pupils living on the United States military reservation at West Point attending public school, shall be deemed to be resident pupils of the district providing such school, for purposes of this paragraph. Where a school district has entered into a contract with the state university pursuant to subdivision two of section three hundred fifty-five of this chapter under which the school district makes payments in the nature of tuition for the

education of certain children residing in the district, such children for whom such tuition payments are made shall be deemed to be resident pupils of such district for the purposes of this paragraph.

[~~e.~~] **(5)** In determining the resident weighted average daily attendance of a component school district of a central high school district for computing the aid ratio the weighted average daily attendance of high school pupils residing in such component district and attending the central high school shall be included. The resident weighted average daily attendance of a central high school district itself shall be the sum of the resident weighted average daily attendance of each component school district computed as provided in the first sentence of this paragraph.

[~~f.~~] **(6)** Notwithstanding the provisions of [~~paragraphs d and e~~] **subparagraphs four and five** of this [~~subdivision~~] **paragraph**, when a school district shall experience an increase in resident weighted average daily attendance during the current year because of the closing in whole, or in part, of a non-public school or a campus school, or a school previously operated by the United States government on the United States military reservation at West Point, the commissioner, in computing any aid ratio of such district, shall permit the use of such additional resident weighted average daily attendance for aid ratio purposes during the current year and the next succeeding year, provided that such additional resident weighted average daily attendance attributable to such closing, or part thereof, shall be in excess of one hundred students; provided, however, that such district which qualifies for an increase in total wealth pupil units pursuant to paragraph [~~c~~] **f** of **this** subdivision [~~two-b of this section~~], shall use the increase in resident weighted average daily attendance, even if such increase in resident weighted average daily attendance is less than one hundred.

[~~**g. After the final computation of aid as provided in subdivision twelve of this section, a school district which maintains an elementary school and which does not operate a kindergarten through twelve program and contracts for education of some or all of its secondary pupils in another school district which has a higher pupil wealth ratio used for the current year for the computation of operating aid may elect to receive the net tuition adjustment provided under the terms of this subdivision. The total aid receivable under paragraph b or c of subdivision twelve of this section by the sending district for the current year shall be divided by the total aidable pupil units of the sending district used for computation of aid for the current year and such amount multiplied by the number of secondary pupils for whom the contract is made. The resulting tuition adjustment will be paid to the sending district in addition to the aid computed under the provisions of subdivision twelve of this section less an amount to be deducted and computed as follows: the total aid receivable under subdivision twelve of this section by the receiving district for the current year shall be divided by its total aidable pupil units used for computation of aid for the current year and such amount multiplied by the number of secondary pupils received by such district from the sending district during the current year. If the sending district elects to receive this adjustment, the tuition payable to the district furnishing instruction shall be computed in accordance with regulations adopted by the commissioner.**~~

[~~**2-a.**~~] **b.** Computation of adjusted average daily attendance. For purposes of this section adjusted average daily attendance of a school district for any school year shall be computed as follows:

[~~a.~~] **(1)** Adjusted average daily attendance shall be determined by using the average daily attendance of public school pupils in a full-day kindergarten and grades one through twelve as the basic unit, with the attendance of such pupils in one-half day kindergartens measured at one-half of such basic unit. The sum of all such units of attendance shall be the adjusted average daily attendance.

[~~b.~~] **(2)** In computing such attendance, the school district shall [~~(1)~~] **(i)** determine the number of religious holidays which fall on a school day within a school year according to regulations established by the commissioner, such religious holidays to be duly recognized as such for purposes of this section by duly adopted resolution of the board of education; [~~(2)~~] **(ii)** deduct the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; [~~(3)~~] **(iii)** deduct such religious holidays from the total number of days of session, by grade level; [~~(4)~~] **(iv)** compute the adjusted average daily attendance for the school year.

[~~c.~~] **(3)** In any instance where a pupil is a resident of another state or an Indian pupil is a resident of any portion of a reservation located wholly or partly within the borders of the state pursuant to subdivision four of section forty-one hundred one of this chapter or a pupil is living on federally owned land or property, such pupil's attendance shall be counted as part of the adjusted average daily attendance of the school district in which such pupil is enrolled.

[~~2-b.~~] **c. Computation of additional aidable pupil units. The additional aidable pupil units used to compute total aidable pupil units pursuant to paragraph e of this subdivision shall be the sum of the attendance of summer session pupils multiplied by twelve per centum and the weighted pupils with special educational needs. Nothing contained in this paragraph shall be construed to result in the inclusion of the attendance of summer session pupils in the computation of weighted or adjusted average daily attendance pursuant to this subdivision.**

d. Secondary school weighting. There shall be added to the total aidable pupil units computed in paragraph e of this subdivision a number equal to the product of: (1) twenty-five per centum, (2) the adjusted average daily attendance in grades seven through twelve for the year prior to the base year, excluding attendance of pupils who receive a weighting for disabilities, and (3) the enrollment index computed pursuant to this section for the base year.

e. Computation of total aidable pupil units. (1) A district's total aidable pupil units shall be the sum of the district's adjusted average daily attendance computed pursuant to this section for the year prior to the base year multiplied by the enrollment index computed pursuant to this section for the base year plus the additional aidable pupil units computed for the year prior to the base year under paragraph c of this subdivision.

(2) In such computation school districts may, with the commissioner's approval, exclude attendance for those days on which school attendance was adversely affected because of an epidemic or because of a religious holiday as provided in subparagraph two of paragraph b of this subdivision. For the purposes of computing selected total aidable pupil units, a district may use either total aidable pupil units for the current aid year or the average of total aidable pupil units for the current aid year and the prior aid year, using current aid year definitions of total aidable pupil units for both years, except that for aids payable during the nineteen hundred ninety-seven--nineteen hundred ninety-eight school year the total aidable pupil units for the prior aid year used in such

average shall be calculated using the definition of total aidable pupil units in effect for aid payable in the base year.

f. Computation of total wealth pupil units. [~~a. For the school years commencing July first, nineteen hundred seventy-nine and thereafter total~~] **(1) Total** wealth pupil units will be computed using the adjusted average daily attendance for the year prior to the base year as computed in this section, plus the attendance of resident pupils attending public school elsewhere, less the attendance of nonresident pupils plus the attendance of resident pupils attending full-time in board of cooperative educational services (not otherwise specifically included), plus the additional aidable pupil units as computed pursuant to [~~subdivisions nine and nine-a of this section~~] **paragraphs c and d of this subdivision**, excluding summer school pupils. The attendance of nonresident pupils attending public school in the district and resident pupils attending such schools outside of the district shall be determined by applying to the number of such pupils registered during the school year in each case the ratio of aggregate days attendance to the possible aggregate days attendance of all pupils in attendance in the district. Native American pupils of a reservation attending public school, or pupils living on the United States military reservation at West Point attending public school, shall be deemed to be resident pupils of the district providing such school, for purposes of this paragraph. Where a school district has entered into a contract with state university pursuant to subdivision two of section three hundred fifty-five of this chapter under which the school district makes payment in the nature of tuition for the education of certain children residing in the district, such children for whom such tuition payments are made shall be deemed to be resident pupils of such district for the purposes of this paragraph.

[~~b.~~] **(2)** In determining the total wealth pupil units of a component school district of a central high school district for computing aid [~~ratio~~] **ratios** the total wealth pupil units of high school pupils residing in such component district and attending the central high school shall be included. The total wealth pupil units of a central high school district itself shall be the sum of the total wealth pupil units of each component school district.

[~~c.~~] **(3)** Notwithstanding the foregoing provisions of this [~~subdivision~~] **paragraph**, when a school district shall experience an increase in total wealth pupil units during the current year because of the closing in whole, or in part, of a nonpublic school or a campus school, or a school previously operated by the United States government on the United States military reservation at West Point, the commissioner, in computing any aid ratio of such district, shall permit the use of such additional total wealth pupil units during the current year and the next succeeding year, provided that such additional total wealth pupil units attributable to such closing, or part thereof, shall be in excess of one hundred students; provided, however, that such district which qualifies for an increase in resident weighted average daily attendance pursuant to **subparagraph six of** paragraph [~~g~~] **a** of **this** subdivision [~~two of this section~~], shall use the increase in total wealth pupil units, even if such increase in total wealth pupil units is less than one hundred.

g. Computation of total aidable foundation pupil units. Total aidable foundation pupil units shall be the sum of (1) the district's average daily membership computed pursuant to this section for the year prior to the base year multiplied by the enrollment index computed pursuant to this section for the base year plus (2) the product of the average daily membership of summer session pupils and twelve percent plus (3) the

weighted foundation pupils with disabilities. For the purposes of computing total foundation aid a district may use either total aidable foundation pupil units for the current aid year or the average of total foundation aidable pupil units for the current aid year and the prior aid year, using current aid year definitions of total aidable foundation pupil units for both years.

h. Computation of total wealth foundation pupil units. (1) Total wealth foundation pupil units shall mean the sum of (i) average daily membership for the year prior to the base year as computed in this section, plus (ii) the full-time equivalent enrollment of resident pupils attending public school elsewhere, less the full-time equivalent enrollment of nonresident pupils, plus (iii) the full-time equivalent enrollment of resident pupils attending full-time in board of cooperative educational services (not otherwise specifically included). Native American pupils of a reservation attending public school, or pupils living on the United States military reservation at West Point attending public school, shall be deemed to be resident pupils of the district providing such school, for purposes of this paragraph. Where a school district has entered into a contract with state university pursuant to subdivision two of section three hundred fifty-five of this chapter under which the school district makes payment in the nature of tuition for the education of certain children residing in the district, such children for whom such tuition payments are made shall be deemed to be resident pupils of such district for the purposes of this paragraph.

(2) In determining the total wealth foundation pupil units of a component school district of a central high school district for computing aid ratios the total wealth foundation pupil units of high school pupils residing in such component district and attending the central high school shall be included. The total wealth foundation pupil units of a central high school district itself shall be the sum of the total wealth foundation pupil units of each component school district.

(3) Notwithstanding the foregoing provisions of this paragraph, when a school district shall experience an increase in total wealth foundation pupil units during the current year because of the closing in whole, or in part, of a nonpublic school or a campus school, or a school previously operated by the United States government on the United States military reservation at West Point, the commissioner, in computing any aid ratio of such district, shall permit the use of such additional total wealth foundation pupil units during the current year and the next succeeding year, provided that such additional total wealth foundation pupil units attributable to such closing, or part thereof, shall be in excess of one hundred students.

i. Parent-teacher conferences or workshops. Notwithstanding any other provision of this section to the contrary, when a school district operates for a half day session because of a parent-teacher conference or workshops for teachers, it shall be apportioned with the same amount of state aid for pupils attending kindergarten as if both morning and afternoon kindergarten groups were in attendance although only one kindergarten class attends school. The school district shall provide that morning and afternoon kindergarten groups shall alternate in attendance if more than one half day session is scheduled during the school year.

3. Computation of aid ratios.

a. "Pupil wealth ratio" shall mean the number computed to three decimals without rounding obtained when actual valuation of a school district divided by the total wealth pupil units is divided by the

statewide average actual valuation per total wealth pupil unit as computed by the commissioner in accordance with the provisions of this section. Such statewide average actual valuation per total wealth pupil unit shall be established each year by the commissioner using the latest single year actual valuation computed under paragraph c of subdivision one of this section. Such statewide average shall be transmitted to the school districts. Such statewide average shall be rounded to the nearest hundredth and shall include the actual valuation and total wealth pupil units of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data.

b. "Alternate pupil wealth ratio" shall mean the number computed to three decimals without rounding obtained when the adjusted gross income of a school district for the calendar year two years prior to the calendar year in which the base year began divided by the total wealth pupil units of such district is divided by the statewide adjusted gross income per total wealth pupil unit. Such statewide average gross income per pupil shall be established each year by the commissioner and shall be transmitted to school districts. For the purposes of this paragraph, the income data shall be computed in accordance with regulations adopted by the commissioner of taxation and finance based upon personal income tax returns for the calendar year three years prior to the calendar year in which the current school year commences, as reported to the commissioner by September of the base year, including the results of the permanent computerized statewide school district address match and income verification system. The income of the city school district of the city of New York shall be the sum of the income of the boroughs of the city. Such statewide average shall be rounded to the nearest hundredth and shall include the adjusted gross income and total wealth pupil units of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data. The adjusted gross income of a central high school district shall equal the sum of the adjusted gross income of each of its component school districts.

c. "Combined wealth ratio" shall mean the number computed to three decimals without rounding obtained when fifty per centum of the pupil wealth ratio is added to fifty per centum of the alternate pupil wealth ratio.

d. "Income wealth index" shall mean the number computed to three decimals without rounding obtained when the adjusted gross income of a school district for the calendar year two years prior to the calendar year in which the base year began divided by the total wealth foundation pupil units of such district is divided by the statewide adjusted gross income per total wealth foundation pupil units. Such statewide average gross income per pupil shall be established each year by the commissioner and shall be transmitted to school districts. For the purposes of this paragraph, the income data shall be computed in accordance with regulations adopted by the commissioner of taxation and finance based upon personal income tax returns for the calendar year two years prior to the calendar year in which the current school year commences, as reported to the commissioner in February of the base year, including the results of the computerized statewide school district address match and income verification system. The income of the city school district of the city of New York shall be the sum of the income of the boroughs of

the city. Such statewide average shall be rounded to the nearest hundredth and shall include the adjusted gross income and total wealth foundation pupil units of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data. The adjusted gross income of a central high school district shall equal the sum of the adjusted gross income of each of its component school districts.

e. Building aid ratios. The aid ratio to be used in determining building aid apportionments to any school district pursuant to this section shall be computed in the following manner:

(1) The actual valuation of such district shall be divided by its resident weighted average daily attendance as computed pursuant to this section to determine its actual valuation per resident pupil.

(2) The commissioner shall determine the state average actual valuation per pupil in resident weighted average daily attendance for the preceding school year using the latest single year actual valuation computed under paragraph c of subdivision one of this section. The commissioner shall transmit such state average to the school districts. Such statewide average shall be rounded to the nearest hundredth and shall include the actual valuation and resident weighted average daily attendance of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data.

(3) The resident weighted average daily attendance wealth ratio shall mean the actual valuation per resident pupil of the school district divided by such state average actual valuation per pupil, carried to three decimal places without rounding.

(4) The building aid ratio shall be computed by subtracting from one the product obtained by multiplying the resident weighted average daily attendance wealth ratio by fifty-one percent. Such aid ratio shall be expressed as a decimal carried to three places without rounding, but shall not be less than zero.

(5) The additional building aid ratio for low income wealth school districts shall be the product obtained by multiplying the state sharing ratio by one and two hundred sixty-three thousandths (1.263).

f. The board of cooperative educational services aid ratio shall equal the greater of: (1) an amount equal to one minus the quotient expressed as a decimal to three places without rounding of eight mills divided by the tax rate of the local district computed upon the actual valuation of taxable property, as determined pursuant to subdivision one of this section, expressed in mills to the nearest tenth as determined by the commissioner, provided, however, that where services are provided to a school district which is included within a central high school district or to a central high school district, such amount shall equal one minus the quotient expressed as a decimal to three places without rounding of three mills divided by the tax rates, expressed in mills to the nearest tenth, of such districts, as determined by the commissioner or (2) an amount computed by subtracting from one the product obtained by multiplying the resident weighted average daily attendance wealth ratio by fifty-one percent. Such aid ratio shall be expressed as a decimal carried to three places without rounding but shall not be less than thirty-six percent and shall not be greater than ninety percent.

g. Computation of the state sharing ratio. The state sharing ratio shall be the higher of:

(1) a value computed by subtracting from one and thirty-seven hundredths the product obtained by multiplying the combined wealth ratio by one and twenty-three hundredths; or

(2) a value computed by subtracting from one the product obtained by multiplying the combined wealth ratio by sixty-four hundredths; or

(3) a value computed by subtracting from eighty hundredths the product obtained by multiplying the combined wealth ratio by thirty-nine hundredths; or

(4) a value computed by subtracting from fifty-one hundredths the product obtained by multiplying the combined wealth ratio by twenty-two hundredths.

Such result shall be expressed as a decimal carried to three places without rounding, but shall not be greater than ninety hundredths nor less than zero.

4. Total foundation aid. In addition to any other apportionment pursuant to this chapter, a school district, other than a special act school district as defined in subdivision eight of section four thousand one of this chapter, shall be eligible for total foundation aid equal to the product of total aidable foundation pupil units multiplied by the district's selected foundation aid, which shall be the greater of five hundred dollars ($500) or foundation formula aid, provided, however that for the two thousand seven--two thousand eight through two thousand nine--two thousand ten school years, no school district shall receive total foundation aid in excess of the sum of the total foundation aid base computed pursuant to paragraph j of subdivision one of this section, plus the phase-in foundation increase computed pursuant to paragraph b of this subdivision, and provided further that total foundation aid shall not be less than the product of the total foundation aid base and one hundred three percent, nor more than the product of the total foundation aid base and one hundred twenty-five percent. Total aidable foundation pupil units shall be calculated pursuant to paragraph g of subdivision two of this section. For the purposes of calculating aid pursuant to this subdivision, aid for the city school district of the city of New York shall be calculated on a citywide basis.

a. Foundation formula aid. Foundation formula aid shall equal the remainder when the expected minimum local contribution is subtracted from the product of the foundation amount, the regional cost index, and the pupil need index, or: (foundation amount x regional cost index x pupil need index)- expected minimum local contribution.

(1) The foundation amount shall reflect the average per pupil cost of general education instruction in successful school districts, as determined by a statistical analysis of the costs of special education and general education in successful school districts, provided that the foundation amount shall be adjusted annually to reflect the percentage increase in the consumer price index as computed pursuant to section two thousand twenty-two of this chapter, and provided further that the foundation amount for the two thousand seven--two thousand eight school year shall be five thousand two hundred fifty-eight dollars, and provided further that for the two thousand seven--two thousand eight through two thousand nine--two thousand ten school years, such foundation amount shall be further adjusted by the foundation phase-in percent established pursuant to paragraph b of this subdivision.

(2) The regional cost index shall reflect an analysis of labor market costs based on median salaries in professional occupations that require similar credentials to those of positions in the education field, but not including those occupations in the education field, provided that

the regional cost indices for the two thousand seven--two thousand eight school year and thereafter shall be as follows:

Labor Force Region	Index
Capital District	1.124
Southern Tier	1.045
Western New York	1.091
Hudson Valley	1.314
Long Island/NYC	1.425
Finger Lakes	1.141
Central New York	1.103
Mohawk Valley	1.000
North Country	1.000

(3) The pupil need index shall equal the sum of one plus the extraordinary needs percent, provided, however, that the pupil need index shall not be less than one nor more than two. The extraordinary needs percent shall be calculated pursuant to paragraph w of subdivision one of this section.

(4) The expected minimum local contribution shall equal the product of the local tax factor, the income wealth index and the quotient arrived at when the selected actual valuation is divided by total wealth foundation pupil units. The local tax factor shall be established by May first of each year by determining the product, computed to four decimal places without rounding, of ninety percent multiplied by the quotient of the sum of the statewide average tax rate as computed by the commissioner for the current year in accordance with the provisions of paragraph e of subdivision one of section thirty-six hundred nine-e of this part plus the statewide average tax rate computed by the commissioner for the base year in accordance with such provisions plus the statewide average tax rate computed by the commissioner for the year prior to the base year in accordance with such provisions, divided by three, provided however that for the two thousand seven--two thousand eight school year, such local tax factor shall be sixteen thousandths. The income wealth index shall be calculated pursuant to paragraph d of subdivision three of this section, provided, however, that for the purposes of computing the expected minimum local contribution the income wealth index shall not be less than sixty-five percent (0.65) and shall not be more than two hundred percent (2.0). The selected actual valuation shall be calculated pursuant to paragraph c of subdivision one of this section. Total wealth foundation pupil units shall be calculated pursuant to paragraph h of subdivision two of this section.

b. Phase-in foundation increase. (1) The phase-in foundation increase shall equal the product of the phase-in foundation increase factor multiplied by the greater of (i) the positive difference, if any, of (A) the product of the total aidable foundation pupil units multiplied by the district's selected foundation aid less (B) the total foundation aid base or (ii) the product of the phase-in due-minimum percent multiplied by the total foundation aid base.

(2) For the two thousand seven--two thousand eight school year, the phase-in foundation percent shall equal one hundred seven and sixty-eight hundredths percent (1.0768), the phase-in foundation increase factor shall equal twenty percent (0.20), and the phase-in due-minimum percent shall equal twelve and fifty-five hundredths percent (0.1255);

for the two thousand eight--two thousand nine school year, the phase-in foundation percent shall equal one hundred five and six hundredths percent (1.0506), the phase-in foundation increase factor shall equal

forty-two and one-half percent (0.425), and the phase-in due-minimum percent shall equal nine and twenty-seven hundredths percent (0.0927);

for the two thousand nine--two thousand ten school year, the phase-in foundation percent shall equal one hundred two and forty-nine hundredths percent (1.0249), the phase-in foundation increase factor shall equal seventy percent (0.70), and the phase-in due-minimum percent shall equal six and nine hundredths percent (0.0609).

c. Public excess cost aid setaside. Each school district shall set aside from its total foundation aid computed for the current year pursuant to this subdivision an amount equal to the product of: (i) the difference between the amount the school district was eligible to receive in the two thousand six--two thousand seven school year pursuant to or in lieu of paragraph six of subdivision nineteen of this section minus the amount such district was eligible to receive pursuant to or in lieu of paragraph five of subdivision nineteen of this section in such school year, and (ii) the sum of one and the percentage increase in the consumer price index for the current year over such consumer price index for the two thousand six--two thousand seven school year, as computed pursuant to section two thousand twenty-two of this chapter. Notwithstanding any other provision of law to the contrary, the public excess cost aid setaside shall be paid pursuant to section thirty-six hundred nine-b of this part.

5. Public high cost excess cost aid. A school district having a pupil with a disability of school age for whom the cost, as approved by the commissioner, of appropriate special services or programs exceeds the lesser of ten thousand dollars or four times the expense per pupil without limits shall be entitled to an additional apportionment for each such child computed by multiplying the district's excess cost aid ratio by the amount by which such cost exceeds three times the district's expense per pupil without limits.

a. For the purpose of this subdivision:

(1) Expense per pupil for the purposes of this subdivision shall be not less than two thousand dollars and not more than the greater of seven thousand one hundred ten dollars or the statewide average of such expense per pupil. Such statewide average expense per pupil shall be computed and rounded to the nearest fifty dollars by the commissioner using the expense and pupils as estimated by school districts or as determined by the commissioner for use in determining the expense per pupil of the district pursuant to paragraph f of subdivision one of this section for all districts eligible for aid pursuant to this section. For the purposes of calculating such statewide expense per pupil, the data for the city school district of the city of New York shall be city-wide data.

(2) The excess cost aid ratio shall be computed by subtracting from one the product obtained by multiplying fifty-one per centum by the combined wealth ratio. This aid ratio shall be expressed as a decimal carried to three places without rounding, but not less than twenty-five percent.

b. Notwithstanding section thirty-six hundred nine-a of this part, the apportionment provided for in this subdivision shall be paid pursuant to section thirty-six hundred nine-b of this part.

§ 14. Clause (a) of subparagraph 3 of paragraph e of subdivision 6 of section 3602 of the education law, as amended by section 16 of part C of chapter 57 of the laws of 2004, is amended to read as follows:

(a) For the purposes of calculating the apportionments payable to a school district other than the city school district of the city of New

York pursuant to this subdivision for any debt service related to projects approved by the commissioner on or after the later of the first day of December, two thousand one or thirty days after the date upon which this subparagraph shall have become a law, or for any debt service related to projects approved by the commissioner prior to such date where a bond, capital note or bond anticipation note is first issued on or after such date to fund such project or for lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement entered into on or after the later of the first day of December, two thousand one or thirty days after the date upon which this subparagraph shall have become a law that are eligible for aid under the opening paragraph of this subdivision, current year approved expenditures for debt service shall mean debt service or lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement that would be incurred during the current year based on an assumed amortization to be established by the commissioner pursuant to this subparagraph of the approved project costs to be financed related to any such approved project, for a period of:

(i) thirty years if the project is for the construction or acquisition of a new school building,

(ii) twenty years if the project is for the construction of an addition to a school building or for the reconstruction, rehabilitation or improvement of a school building for which a period of probable usefulness of twenty or more years is assigned pursuant to the local finance law, and

(iii) fifteen years if the project is for the reconstruction, rehabilitation or improvement of a school building for which a period of probable usefulness of less than twenty years is assigned pursuant to the local finance law.

Provided, however, that, notwithstanding any provision of law to the contrary, for aid payable in the two thousand three--two thousand four school year, for any project which is eligible for an apportionment pursuant to this subparagraph, but which did not yet have a certification that a general construction contract had been awarded for such project by the district on file with the commissioner as of February fifteenth, two thousand three, such debt service or lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement that would be incurred during the current year based on an assumed amortization to be established by the commissioner pursuant to this subparagraph of the approved project costs to be financed shall not be current year approved expenditures for debt service, but shall be deemed to be debt service on new bonds and capital notes aidable in July following the current year pursuant to clause (b) of subparagraph one of paragraph f of this subdivision.

Provided, however, that, notwithstanding any provision of law to the contrary, for aid payable in the two thousand four--two thousand five school year, for any project which is eligible for an apportionment pursuant to this subparagraph, but which did not yet have a certification that a general construction contract had been awarded for such project by or on behalf of the district on file with the commissioner as of February fifteenth of the base year, such debt service or lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement that would be incurred during the current year based on an assumed amortization to be established by the commissioner pursuant to this subparagraph of the approved project costs to be financed shall not be current year approved expenditures for debt

service, but shall be deemed to be debt service on new bonds and capital notes aidable in July following the current year pursuant to clause (b) of subparagraph one of paragraph f of this subdivision.

Provided, however, that, notwithstanding any provision of law to the contrary, for aid payable in the two thousand seven--two thousand eight school year and thereafter, for any project which is eligible for an apportionment pursuant to this subparagraph, but which did not yet have a certification that a general construction contract had been awarded for such project by or on behalf of the district on file with the commissioner as of the date upon which an electronic data file was created for the purposes of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter on November fifteenth of the base year, such debt service or lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement that would be incurred during the current year based on an assumed amortization to be established by the commissioner pursuant to this subparagraph of the approved project costs to be financed shall not be current year approved expenditures for debt service, but shall be deemed to be debt service on new bonds and capital notes aidable in July following the current year pursuant to clause (b) of subparagraph one of paragraph f of this subdivision.

§ 15. Subdivision 24 of section 3602 of the education law is renumbered subdivision 11 and paragraphs c and e, paragraph c as added by chapter 57 of the laws of 1993 and paragraph e as amended by section 17 of part A-1 of chapter 58 of the laws of 2006, are amended to read as follows:

c. Employment preparation education aid ceiling. The employment preparation education aid ceiling for the purposes of this subdivision shall be the statewide average expense per pupil, as [~~defined in~~] **computed pursuant to** subdivision [~~nineteen~~] **five** of this section for aid payable in the current year, divided by one thousand. Such result shall be computed to two decimals without rounding.

e. Employment preparation education apportionment. In addition to any other aid payable under this section, the apportionment pursuant to this subdivision shall be the product obtained when the employment preparation education hours are multiplied by the aid per contact hour which shall equal the product of the employment preparation program aid ceiling and the employment preparation education aid ratio computed to two decimals, rounded, as calculated based on data on file with the commissioner on May fifteenth of the base year. Notwithstanding the provisions of section thirty-six hundred nine-a of this part, the payment of such apportionment shall be based upon reports required by the commissioner for the periods ending December thirty-first, and June thirtieth of each school year; payments for the first reporting period shall be made after April first, based on claims on file by March first, provided that the total of all such payments shall not exceed twenty-five percent of the amount for such school year, with the approved amount of such claims reduced on a pro rata basis if necessary; the remainder of any payments due for the first period plus any payments due for the rest of the school year shall be paid after October first, based on claims on file by September fifteenth, provided that the total of such payments shall not exceed the total amount of ninety-six million [~~one hundred eighty thousand~~] dollars [~~($96,180,000)~~] **($96,000,000)** for such school year, with the approved amount of such claims reduced on a pro rata basis if necessary, [~~provided, however, that for the nineteen hundred ninety-five--ninety-six school year such total amount shall not exceed ninety-~~

~~four million one hundred eighty thousand dollars ($94,180,000), and provided further that for the two thousand three--two thousand four school year such total amount shall not exceed eighty-four million dollars ($84,000,000) and further~~] provided that the total of such payment for services provided to persons who received a high school diploma or a high school equivalency diploma recognized by New York state shall not exceed the total amount set aside for such purpose pursuant to paragraph a-one of this subdivision in any such school year, with the approved amount of such claims reduced on a pro rata basis if necessary[~~, and provided further that for the two thousand four--two thousand five school year such total amount shall not exceed ninety million dollars ($90,000,000) with the approved amount of such claims reduced on a pro rata basis if necessary, and provided further that for the two thousand five--two thousand six and two thousand six--two thousand seven school years such total amount shall not exceed ninety-six million dollars ($96,000,000) with the approved amount of such claims reduced on a pro rata basis if necessary~~]; and aid paid pursuant to this paragraph shall not be included in the computation of the district expenditure need as defined in such section thirty-six hundred nine-a of this part. The employment preparation education apportionment for the city school district of the city of New York shall be computed only for the city as a whole.

§ 16. Subdivisions 10, 12-a, paragraph b of subdivision 17 and subdivisions 35 and 36 of section 3602 of the education law, subdivision 10 as amended by section 22 of part H of chapter 83 of the laws of 2002, subdivision 12-a as amended by section 12 of part A of chapter 60 of the laws of 2000, paragraph a of subdivision 12-a as amended by section 27 of part H of chapter 83 of the laws of 2002, paragraph b of subdivision 17 as amended by section 7 of part L of chapter 57 of the laws of 2005, such subdivision 17 is renumbered subdivision 10, subdivisions 35 and 36 as added by chapter 57 of the laws of 1993, paragraph a of subdivision 35 as amended by chapter 564 of the laws of 2001, paragraphs b and f of subdivision 36 as amended by section 21 of part A-2 of chapter 62 of the laws of 2003, subparagraph 2 of paragraph b of subdivision 36 as amended by section 20 of part A-1 of chapter 58 of the laws of 2006 and subparagraph 3 of paragraph b of subdivision 36 as amended by section 36 of part C of chapter 57 of the laws of 2004, are amended to read as follows:

[~~10.~~] **8.** a. Program approval requirements. Any school district receiving [~~limited English proficiency aid pursuant to subdivision twenty-two of this section or a payment in lieu of such aid or any district receiving an additional apportionment pursuant to subdivision nineteen of this section for pupils with disabilities or a payment in lieu of such apportionment or any district receiving~~] an additional apportionment pursuant to subdivision [~~seventeen~~] **ten** of this section for pupils in career education programs or a payment in lieu of such apportionment **or having a public excess cost aid setaside pursuant to subdivision four of this section** shall use the total funds attributable to such pupils for locally administered programs for such pupils in accordance with regulations issued by the commissioner. Such regulations shall provide for the use of such funds in the manner determined by the commissioner to be the most educationally advantageous for such pupils[~~; and such regulations shall also include annual district reporting requirements which shall require the identification of such pupils, a statement describing the expenditure of the preceding year's funds for such pupils and an evaluation of the results obtained from such expenditures~~]**. The commissioner**

shall require the submission of such reports as are necessary to assure accountability for the use of such funds. A district which spends any part of its total annual apportionment attributable to such pupils in an unauthorized manner in the base year shall have its current year apportionment reduced by the amount of such unauthorized expenditures in the base year.

b. District plans of service. Any school district receiving [~~**limited English proficiency aid pursuant to subdivision twenty-two of this section or a payment in lieu of such aid or**~~] an additional apportionment pursuant to subdivision [~~**nineteen of this section for pupils with disabilities or a payment in lieu of such apportionment or to subdivision seventeen**~~] **ten** of this section for pupils in career education programs or a payment in lieu of such apportionment **or having a public excess cost aid setaside pursuant to subdivision four of this section** shall[~~**, prior to September first, nineteen hundred seventy-four and every third year thereafter, submit to**~~] **keep on file and make available for public inspection and review by** the commissioner an acceptable plan of service describing the student outcomes expected from implementation of the proposed plan, [~~**except that after September first, nineteen hundred eighty-six such plans with respect to the apportionment for pupils with disabilities or for pupils in career education programs shall be submitted every two years at a date specified by the commissioner and revised annually**~~] **provided that such plan may be incorporated into a school district's district-wide comprehensive plan**. The plan of service submitted by a school district receiving an additional apportionment pursuant to [~~**subdivision nineteen of**~~] this section for pupils with disabilities shall also describe how such district intends to ensure that all instructional materials to be used in the schools of such district will be made available in a usable alternative format for each student with a disability and for each student who is a qualified individual with a disability, at the same time as such instructional materials are available to non-disabled students, provided that such plan may incorporate by reference the alternative format plans developed pursuant to subdivision twenty-nine-a of section sixteen hundred four, subdivision four-a of section seventeen hundred nine, subdivision seven-a of section twenty-five hundred three or subdivision seven-a of section twenty-five hundred fifty-four of this chapter. Such plans shall be in a form prescribed by the commissioner, and except as heretofore provided, shall have the content prescribed by the commissioner. The commissioner may, from time to time, require amendments of such plans as deemed to be necessary and appropriate to further the educational welfare of the pupils involved.

[~~**12-a.**~~] **9.** Aid for conversion to full day kindergarten. [~~**a.**~~] School districts may make available full day kindergarten programs for all children wishing to attend such programs **and, no later than the two thousand ten--two thousand eleven school year, each high need or low-performing school district that meets criteria pursuant to regulations of the commissioner shall make full day kindergarten programs available to all children in such district**. [~~**For school year two thousand--two thousand one, school districts may make available full day kindergarten programs for children wishing to attend such programs pursuant to regulations of the commissioner.**~~] For aid payable in the [~~**nineteen hundred ninety-eight--ninety-nine**~~] **two thousand seven--two thousand eight** school year and thereafter, school districts which **had not received an apportionment pursuant to this paragraph in any prior school year, where such districts** provided any half-day kindergarten programs or [~~**school**~~

~~districts which~~] had no kindergarten programs in the nineteen hundred ninety-six--ninety-seven school year and in the base year shall be eligible for aid equal to the product of the district's [~~selected operating aid per pupil~~] **selected foundation aid calculated pursuant to subdivision four of this section** multiplied by the positive difference resulting when the full day kindergarten enrollment of children attending programs in the district in the base year is subtracted from such enrollment in the current year. [~~For the purposes of this subdivision, selected operating aid per pupil shall mean the greater of the per pupil amount calculated pursuant to paragraph b or c of subdivision twelve of this section, before such amounts are multiplied by the district's total aidable pupil units and enrollment shall be determined in accordance with the reporting of such data pursuant to paragraph n of subdivision one of this section. For aid payable in the two thousand two--two thousand three school year, districts which made full day kindergarten programs first available in the two thousand one--two thousand two school year, but for which an amount attributable to this program was not displayed on the computer listing produced by the commissioner in support of the executive budget request for two thousand one--two thousand two and entitled "BT032-1" under the heading "FULL DAY K", would be eligible to receive an amount equal to the product of the district's selected operating aid per pupil calculated as if operating aid had been calculated pursuant to subdivision twelve of this section in the current year multiplied by the positive difference resulting when the full day kindergarten enrollment of children attending programs in the district in the year prior to the base year is subtracted from such enrollment in the base year.~~

~~b. Notwithstanding the provisions of this subdivision, aid apportioned to this subdivision that is attributable to pupils enrolled in full day kindergarten programs that are not available for all children wishing to attend such programs shall not exceed the amount allocated for such programs. In the event that all claims for such programs pursuant to this subdivision exceed such allocation, the commissioner shall determine the percentage of total claims submitted that is represented by each district's claim on file with the commissioner at the time of creation of each data file or fiscal report required by subdivision twenty-one of section three hundred five of this chapter and shall pay such claims on a prorated basis among all districts filing such claims, provided that such prorated apportionment, computed and payable as of September one of the school year immediately following the school year for which such aid is claimed shall be deemed final and not subject to change. For the two thousand--two thousand one school year, the maximum allocation for such programs shall be three million dollars ($3,000,000).~~]

b. Aid for career education. There shall be apportioned to such city school districts and other school districts which were not components of a board of cooperative educational services in the base year for pupils in grades ten through twelve in attendance in career education programs as such programs are defined by the commissioner, subject for the purposes of this paragraph to the approval of the director of the budget, an amount for each such pupil to be computed by multiplying the career education aid ratio by [~~three thousand seven hundred twenty~~] **three thousand nine hundred** dollars. Such aid will be payable for weighted pupils attending career education programs operated by the school district and for weighted pupils for whom such school district contracts with boards of cooperative educational services to attend

career education programs operated by a board of cooperative educational services. Weighted pupils for the purposes of this paragraph shall mean the sum of the attendance of students in grades ten through twelve in career education sequences in trade, industrial, technical, agricultural or health programs plus the product of sixteen hundredths multiplied by the attendance of students in grades ten through twelve in career education sequences in business and marketing as defined by the commissioner in regulations. The career education aid ratio shall be computed by subtracting from one the product obtained by multiplying fifty-nine percent by the combined wealth ratio. This aid ratio shall be expressed as a decimal carried to three places without rounding, but not less than thirty-six percent.

Any school district that receives aid pursuant to this paragraph shall be required to use such amount to support career education programs in the current year.

A board of education which spends less than its local funds as defined by regulations of the commissioner for career education in the base year during the current year shall have its apportionment under this subdivision reduced in an amount equal to such deficiency in the current or a succeeding school year, provided however that the commissioner may waive such reduction upon determination that overall expenditures per pupil in support of career education programs were continued at a level equal to or greater than the level of such overall expenditures per pupil in the preceding school year.

[~~**35.**~~] **13.** Youth incarcerated in county correctional facilities apportionment. a. In addition to any other apportionment under this section, a school district shall be eligible for an apportionment for current year educational services provided between July first and June thirtieth to youth incarcerated in correctional facilities maintained by a county or the city of New York or in a youth shelter, as defined in paragraph f of subdivision seven of section thirty-two hundred two of this chapter, pursuant to subdivision seven of section thirty-two hundred two of this chapter. Such apportionment shall not exceed the sum of the following: (i) for programs which operate between September first and June thirtieth, the product of the district's expense per pupil and the number of pupils in full-time equivalent attendance as defined in regulations of the commissioner multiplied by one hundred twenty-five per centum plus (ii) for programs which operate between July first and June thirtieth, the product of the district's expense per pupil and the number of pupils in full-time equivalent attendance, multiplied by one hundred fifty per centum. Such apportionment shall be in accordance with regulations promulgated by the commissioner and approved by the director of the budget and shall be the lesser of the amount computed pursuant to this paragraph or the actual amount expended by the district for such approved educational services and approved administrative costs as reported to the commissioner provided, however, that the minimum allocation in any school year for a school district providing educational services to such children shall be fifteen thousand dollars. The educational costs for these children shall not be otherwise aidable or reimbursable under any provision of law; provided, however, that a city school district which operates an academy or an alternative high school at such a facility, may elect to receive applicable aid pursuant to other provisions of this section in lieu of any aid under this subdivision. [~~**For aid payable in the nineteen hundred ninety-four--ninety-five school year and earlier, expense per pupil for purposes of this subdivision shall mean approved operating expense for the base year divided by**~~

~~the total aidable pupil units pursuant to subdivision eight of this section for the base year, and for aid payable in the nineteen hundred ninety-five--ninety-six school year, expense per pupil for the purposes of this subdivision shall mean approved operating expense for the year prior to the base year divided by the total aidable pupil units pursuant to subdivision eight of this section for the year prior to the base year.~~]

b. Notwithstanding the provisions of section thirty-six hundred nine-a of this [~~chapter~~] **part**, the payment of such apportionment shall be based on reports required by the commissioner for the periods ending November thirtieth, March thirty-first and June thirtieth of each school year. For the city school district of the city of New York, computations made pursuant to this subdivision shall be computed on a city-wide basis.

d. The commissioner shall adopt regulations to implement the provisions of this subdivision.

[~~36.~~] **15.** Voluntary interdistrict urban-suburban transfer program aid. a. A school district which accepts pupils from another school district in accordance with a voluntary interdistrict urban-suburban transfer program designed to reduce racial isolation which is approved by the commissioner in accordance with regulations adopted by him for such purpose shall be eligible for aid pursuant to this subdivision.

b. Definitions. (1) "Transfer pupil count" shall mean the public school district enrollment in the current year through such program.

(2) "Increase in aid" shall mean **the product of thirty-six and one-half percent (0.365) and** the positive remainder resulting when the [~~comprehensive operating aids~~] **total foundation aid** base is subtracted from the current year **total foundation** aid [~~for limiting~~] as defined in [~~subparagraph one of paragraph a of~~] subdivision [~~eighteen~~] **four** of this section[~~, provided, however, that for the purposes of calculating an apportionment pursuant to this subdivision for the two thousand three--two thousand four, two thousand four--two thousand five and two thousand six--two thousand seven school years, "increase in aid" shall mean the positive remainder resulting when an amount equal to the districts' comprehensive operating aids base as if such comprehensive operating aids base had been calculated for such year pursuant to paragraph j of subdivision one of this section is subtracted from the current year aid for limiting as defined in subparagraph one of paragraph a of subdivision eighteen of this section~~].

(3) "Aid paid per pupil" shall mean the aid computed in the current year pursuant to [~~subdivisions twelve and eighteen~~] **subdivision four** of this section divided by the total aidable **foundation** pupil units for [~~operating~~] **total foundation** aid, computed pursuant to **paragraph g of** subdivision [~~eight~~] **two** of this section.

(4) "Formula pupil margin" shall mean the increase in aid divided by aid paid per pupil.

(5) "Excess transfer pupils" shall mean the positive remainder resulting when the formula pupil margin is subtracted from the transfer pupil count.

(6) "Per pupil aid differential" shall mean the positive remainder resulting when the aid paid per pupil for such school district is subtracted from the aid paid per pupil for the transfer pupil's district of residence.

c. In addition to any other aid computed under this section, such school district shall be eligible to receive, for each excess transfer pupil, an amount equal to the [~~greater of the amount per pupil computed pursuant to paragraph b of subdivision twelve of this section~~] **selected**

foundation aid for such district [~~**or the grant per pupil**~~] **computed** pursuant to [~~**paragraph c of such**~~] subdivision **four of this section**.

d. For the purposes of computing transportation aid pursuant to subdivision seven of this section, the approved cost of the transportation of pupils in a voluntary interdistrict transfer program approved by the commissioner shall be used in computing approved transportation expense.

e. In addition to any other aid computed under this section, such school district shall be eligible to receive an amount equal to the per pupil aid differential multiplied by the transfer pupil count.

[~~**f. Notwithstanding any inconsistent provisions of this subdivision, for aid payable in two thousand two--two thousand three a school district eligible for an apportionment under this subdivision shall be eligible to receive aid pursuant to this section in an amount equal to the amount that the district would have received if they operated a voluntary interdistrict transfer program in the two thousand--two thousand one school year.**~~]

§ 17. Paragraphs a and b of subdivision 7 of section 3602 of the education law, paragraph a as amended by section 15 of part L of chapter 405 of the laws of 1999 and paragraph b as amended by chapter 474 of the laws of 1996, are amended to read as follows:

a. In addition to the foregoing apportionment, there shall be apportioned to any school district for pupil transportation, the lesser of ninety per centum or the state share of its approved transportation expense for the base year. The state share shall equal the sum of the transportation sparsity adjustment and the transportation aid ratio, but not less than six and one-half percent. The transportation aid ratio shall equal the greater of (i) the product of one and two hundred sixty-three thousandths multiplied by the state sharing ratio [~~**for comprehensive operating aid**~~], (ii) an aid ratio computed by subtracting from one and one hundredth the product computed to three decimals without rounding obtained by multiplying the resident weighted average daily attendance wealth ratio by forty-six percent, where such aid ratio shall be expressed as a decimal carried to three places without rounding or (iii) excluding cities with a population of more than one million, an aid ratio computed by subtracting from one and one hundredth the product computed to three decimal places without rounding obtained by multiplying the number computed to three decimals without rounding obtained when the quotient of actual valuation of a school district, as defined in paragraph c of subdivision one of this section, divided by the sum of the resident public school district enrollment, the resident nonpublic school district enrollment and the additional public school enrollment of the school district for the year prior to the base year is divided by the statewide average actual valuation per the sum of such total resident public school district enrollment, nonpublic school district enrollment and additional public school enrollment of all school districts eligible for an apportionment pursuant to this section except central high school districts as computed by the commissioner using the latest single year actual valuation computed under paragraph c of subdivision one of this section, by forty-six percent, where such ratio shall be expressed as a decimal carried to three decimal places without rounding. The computation of such statewide average shall include the actual valuation of all school districts eligible for an apportionment pursuant to this section except central high school districts. The transportation sparsity adjustment shall equal the quotient of: the positive remainder of twenty-one minus the district's public school enrollment for the year prior to the base year per square mile, divided by three hundred seven-

teen and eighty-eight hundredths. Approved transportation expense shall be the sum of the approved transportation operating expense and the approved transportation capital, debt service and lease expense of the district. Approved transportation expense shall not be aidable pursuant to section nineteen hundred fifty of this chapter.

b. (1) For the purposes of this apportionment, approved transportation operating expense shall be the actual expenditure incurred by a school district and approved by the commissioner (i) for those items of transportation operating expense allowable under subdivision one of section thirty-six hundred twenty-three-a of this article for regular aidable transportation of pupils as such terms are defined in sections thirty-six hundred twenty-one and thirty-six hundred twenty-two-a of this article, and (ii) for those items of transportation operating expense allowable under subdivision one of section thirty-six hundred twenty-three-a of this article for the transportation required or authorized pursuant to article eighty-nine of this chapter, and (iii) for providing monitors on school buses for students with disabilities, and (iv) for transportation operating expenses allowable under section thirty-six hundred twenty-three-a of this article for the transportation of homeless children authorized by paragraph c of subdivision four of section thirty-two hundred nine of this chapter, provided that the total approved cost of such transportation shall not exceed the amount of the total cost of the most cost-effective mode of transportation.

(2) Notwithstanding any inconsistent provisions of this article, [~~any increase in aids payable pursuant to this paragraph for public service transportation during the nineteen hundred ninety-four--ninety-five school year claimed by~~] **in computing the apportionment payable to** a school district in a city with a population in excess of one million inhabitants [~~that is in excess of such aids payable based on the estimate of such expenditures reported to the commissioner by such city school district as of April first, nineteen hundred ninety-five shall be payable in September, nineteen hundred ninety-six~~] **pursuant to this subdivision, approved transportation expense for public service transportation shall not include any expenditures to the New York City Metropolitan Transportation Authority for public service transportation nor shall such expense be included in approved operating expense**.

§ 18. Section 3602 of the education law is amended by adding a new subdivision 17 to read as follows:

17. Transitional aid for charter school payments. In addition to any other apportionment under this section, for the two thousand seven--two thousand eight school year and thereafter, a school district with a combined wealth ratio of less than one shall be eligible for an apportionment in an amount equal to the sum of

(a) the product of (i) the product of eighty percent multiplied by the charter school basic tuition computed for such school district for the base year pursuant to section twenty-eight hundred fifty-six of this chapter, multiplied by (ii) the positive difference, if any, of the number of resident pupils enrolled in the charter school in the base year less the number of resident pupils enrolled in a charter school in the year prior to the base year, provided, however, that a school district shall be eligible for an apportionment pursuant to this paragraph only if the number of its resident pupils enrolled in charter schools in the base year exceeds five percent of the total resident public school district enrollment of such school district in the base year and the total general fund payments made by such district to charter schools in the base year for resident pupils enrolled in charter

schools exceeds five percent of total general fund expenditures of such district in the base year, plus

(b) the product of (i) the product of sixty percent multiplied by the charter school basic tuition computed for such school district for the base year pursuant to section twenty-eight hundred fifty-six of this chapter, multiplied by (ii) the positive difference, if any, of the number of resident pupils enrolled in the charter school in the year prior to the base year less the number of resident pupils enrolled in a charter school in the year two years prior to the base year, provided, however, that a school district shall be eligible for an apportionment pursuant to this paragraph only if the number of its resident pupils enrolled in charter schools in the year prior to the base year exceeds five percent of the total resident public school district enrollment of such school district in the year prior to the base year and the total general fund payments made by such district to charter schools in the year prior to the base year for resident pupils enrolled in charter schools exceeds five percent of the total general fund expenditures of such district in the year prior to the base year, plus

(c) the product of (i) the product of forty percent multiplied by the charter school basic tuition computed for such school district for the base year pursuant to section twenty-eight hundred fifty-six of this chapter, multiplied by (ii) the positive difference, if any, of the number of resident pupils enrolled in the charter school in the year two years prior to the base year less the number of resident pupils enrolled in a charter school in the year three years prior to the base year, provided, however, that a school district shall be eligible for an apportionment pursuant to this paragraph only if the number of its resident pupils enrolled in charter schools in the year two years prior to the base year exceeds five percent of the total resident public school district enrollment of such school district in the year two years prior to the base year and the total general fund payments made by such district to charter schools in the year two years prior to the base year for resident pupils enrolled in charter schools exceeds five percent of the total general fund expenditures of such district in the year two years prior to the base year.

§ 19. Section 3602-e of the education law, as added by section 58 of part A of chapter 436 of the laws of 1997, paragraphs a and b of subdivision 3 as amended by section 34 of part C of chapter 58 of the laws of 1998, paragraph e of subdivision 5 as amended by section 33 of part A of chapter 60 of the laws of 2000, paragraph a of subdivision 8 as amended and paragraph f of subdivision 8 as added by section 4 of part A of chapter 58 of the laws of 2006, subdivision 9 as amended by section 35 of part C of chapter 58 of the laws of 1998, paragraph a of subdivision 9 as amended by section 5 of part A of chapter 58 of the laws of 2006, subparagraphs 1 and 3 of paragraph a of subdivision 10 as amended by section 36 of part C of chapter 58 of the laws of 1998, subparagraphs 1-a and 1-b of paragraph a of subdivision 10 as amended by section 34 of part A of chapter 60 of the laws of 2000, subparagraph 3-a of paragraph a of subdivision 10 as amended by section 40 of part L of chapter 405 of the laws of 1999, subparagraph 3-b of paragraph a of subdivision 10 as amended and subparagraph 3-c of paragraph a of subdivision 10 as added by section 35 of part A of chapter 60 of the laws of 2000, subparagraph 4 of paragraph a of subdivision 10 as amended by section 1-a of part F of chapter 383 of the laws of 2001, paragraph b of subdivision 10 as amended by section 36 of part A of chapter 60 of the laws of 2000, paragraphs c and d of subdivision 10 as added by section 39 of part C of

chapter 58 of the laws of 1998, paragraph e of subdivision 10 as added by section 41 of part L of chapter 405 of the laws of 1999, paragraph f of subdivision 10 as added by section 37 of part A of chapter 60 of the laws of 2000, subdivision 10-a as amended by section 4 of part G of chapter 61 of the laws of 2006, subdivision 11 as amended by section 22 of part A-1 of chapter 58 of the laws of 2006, subdivision 12 as amended by section 38 of part C of chapter 57 of the laws of 2004, paragraph b of subdivision 12 as amended by section 22 of part A-1 of chapter 58 of the laws of 2006, paragraph 1 of subdivision 12 as amended by section 7 of part A of chapter 58 of the laws of 2006, subdivision 16 as added by section 43 of part L of chapter 405 of the laws of 1999, and subdivision 17 as amended by section 23 of part A-1 of chapter 58 of the laws of 2006, is amended to read as follows:

§ 3602-e. Universal prekindergarten program. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

a. "School district" shall mean all public school districts eligible for **total foundation** aid pursuant to **subdivision four of** section three thousand six hundred two of this article, such term shall not include boards of cooperative educational services.

b. "Eligible agencies" shall mean a provider of child care and early education, a day care provider, early childhood program or center, or community-based organization, including but not limited to approved pre-school special education programs, head start, and nursery schools so long as the standards and qualifications set forth pursuant to subdivision twelve of this section have been met.

c. "Eligible children" shall mean resident children who are four years of age on or before December first of the year in which they are enrolled or who will otherwise be first eligible to enter public school kindergarten commencing with the following school year.

d. "Pre-kindergarten program plan" shall mean a plan [~~**submitted by the prekindergarten policy advisory board to**~~] **approved by** the board of education or**, in the case of a school district having a population of one million or more, by the** community [~~**school board**~~] **superintendent and the chancellor,** that is designed to effectively serve eligible children **directly through the school district or** through collaborative efforts between the school district and an eligible agency or agencies.

e. "Session" shall mean one universal prekindergarten program class operating pursuant to time, staff ratio and other regulatory requirements as set forth by the board of regents and the commissioner for such purpose.

2. [~~**Within amounts appropriated therefor, the**~~] **The** commissioner is hereby authorized and directed to award grants for the establishment and implementation of a prekindergarten program to serve eligible children.

[~~**3. a. During the nineteen hundred ninety-seven--ninety-eight school year, or, at the option of the trustees or board of education, during the school year immediately preceding the school year in which funds provided pursuant to this section will first become available to the school district, as determined by the commissioner, each school district shall form a prekindergarten policy advisory board (herein referred to as advisory board) appointed by the superintendent which shall include but not be limited to members of the board of education, teachers employed by the school district as selected by the collective bargaining unit, parents of children who attend such district, community leaders and child care and early education providers. In the city school district of the city of New York, there shall be an advisory board**~~

~~appointed by the community school district superintendent in each community school district which shall be composed of at least the following individuals: members of the community school board, teachers employed by the school district as selected by the collective bargaining unit, parents of children which attend such district, community leaders, child care and early education providers and the community school district superintendent or the superintendent's designee.~~

~~b. Each advisory board shall hold at least one public hearing that provides for the participation of parents, school personnel, child care providers and other interested members of the community prior to determining what recommendation it will make to the board of education or, in the city school district in the city of New York, to the community school board. Such public hearing shall be conducted during the school year immediately preceding the school year in which funds provided pursuant to this section will first become available to the school district, as determined by the commissioner. The recommendation by the advisory board as to the implementation of a prekindergarten program shall be based on the consideration of at least the following factors:~~

~~(i) the projected number of children that are currently eligible to participate in a prekindergarten program as well as the estimated number that will be eligible for the prekindergarten program during each of the following four years;~~

~~(ii) the short and long term benefits to eligible children who would be participating in such program;~~

~~(iii) the needs of the parents of the eligible children, including but not limited to the number of children who require full day programs because the person or persons in parental relation work;~~

~~(iv) the ease of utilization and accessibility of the program to parents in order to ensure the greatest number of children are served;~~

~~(v) the availability and existing facility capacity of existing eligible agencies;~~

~~(vi) the most appropriate and effective manner in which to provide prekindergarten programs which most efficiently utilize the resources of the school district and the community, including eligible agencies.~~

~~c. If the advisory board determines that it will recommend the implementation of a prekindergarten program, it shall develop a prekindergarten program plan, with recommendations for the effective implementation of such plan. The prekindergarten program plan shall reflect consideration of the factors delineated in paragraph b of this subdivision and of the comments and testimony received at the hearing or hearings held by the advisory board. Such plan shall be submitted to the board of education or the community school board for consideration prior to a date determined by the commissioner.~~

~~d. If the advisory board determines that it will not recommend the adoption of a prekindergarten program, it shall submit its written recommendation to the school board or community school board.~~

~~4. Upon the consideration of the recommendation and, when applicable, the prekindergarten program plan, submitted by the advisory board, the board of education or community school board, within thirty days of receipt, may adopt, modify or reject such recommendation and/or plan.~~

~~a. If the board of education or community school board is considering modifying or rejecting such recommendation and/or plan, it shall hold a public meeting with the advisory board to discuss aspects of the recommendation and/or plan that has been modified or rejected.~~

~~b. In the event the board of education or the community school board chooses to implement a prekindergarten program regardless of a negative~~

~~recommendation from the advisory board, it shall develop a plan as required by paragraph c of subdivision three of this section.~~]

5. In any school district, other than the city school district of the city of New York, that [~~has adopted a plan for the implementation of a prekindergarten program~~] **seeks an apportionment pursuant to this section**, the school district shall develop and submit an application pursuant to the rules and regulations adopted by the board of regents and the commissioner for such purpose. Such application shall be submitted by a date and in a form prescribed by the commissioner pursuant to subdivision eight of this section, including the program elements as provided for in subdivision seven of this section and shall be consistent with the plan adopted by the district.

a. If the school district chooses to coordinate proposals for prekindergarten program services, it shall conduct a competitive process in accordance with procedures set forth by the commissioner and with the requirements and regulations set forth in, and pursuant to, subdivisions seven, eight and twelve of this section.

b. An application developed by coordinating proposals submitted by eligible agencies pursuant to a competitive process shall ensure delivery of prekindergarten program services in an effective, efficient and non-duplicative manner.

c. The results of the competitive process for prekindergarten program services shall be made public at a regular meeting of the board of education. An eligible agency may request a written statement from the board of education stating why the application was not accepted.

d. Notwithstanding any other provision of law, the school districts shall be authorized to enter any contractual or other arrangements necessary to implement the district's prekindergarten plan.

e. Not less than ten percent of the total grant award to the school district shall be set aside for collaborative efforts with eligible agencies, provided that the commissioner [~~may~~] **shall** waive such set aside requirement based upon [~~documented~~]**: (i)** evidence that the school district was unable to use the set aside to make a collaborative arrangement that would meet all requirements of this subdivision because of unavailability of eligible agencies willing to collaborate or other factors beyond the control of the school district**, (ii) information submitted by the school district that indicates the district has sufficient space to serve all eligible students and that the ten percent set aside would require more than ten percent of the students to be served in collaborative programs**, or **(iii)** for school districts which have fully implemented a universal prekindergarten program by serving all eligible four year olds in the nineteen hundred ninety-eight--ninety-nine school year and due to parental choice the ten percent set aside requirement exceeds the total of the district's aid per kindergarten pupil multiplied by the number of pre-kindergarten pupils in collaborative programs. In such cases, school districts shall set aside, for collaborative efforts with eligible agencies, the total of the district's aid per kindergarten pupil multiplied by the number of prekindergarten pupils in collaborative programs.

6. In the city school district of the city of New York, if a community school [~~board has adopted a plan for the implementation of a prekindergarten program~~] **superintendent seeks to receive an apportionment pursuant to this section**, the community school [~~board~~] **superintendent** shall submit such plan to the [~~city board~~] **chancellor** for adoption**, modification** or rejection.

a. If the [~~city board~~] **chancellor** adopts such plan **as submitted or as modified by the chancellor**, [~~it shall submit such plan to~~] the chancellor [~~who~~] shall submit an application in accordance with subdivision five of this section [~~except that prior to the submission of such application the chancellor shall ensure the community school district superintendent of the district in which the prekindergarten program is located has reviewed such application for consistency with local laws, rules and regulations. All functions performed by the school district pursuant to subdivision five of this section shall be performed by the chancellor~~].

b. If the [~~city board~~] **chancellor** rejects such plan, [~~it~~] **he or she** shall notify the community [~~school board~~] in writing and shall state the reasons for such rejection.

The community [~~school board~~] **superintendent** may modify and resubmit [~~its~~] **such** application to the [~~city board~~] **chancellor** for adoption.

7. In order to receive approval from the commissioner to implement a prekindergarten program, applications and proposals shall demonstrate that the program to be implemented contains, at a minimum, the following components:

a. provides for an age and developmentally appropriate curriculum and activities which are learner-centered;

b. provides for **an assessment of** the development of language, cognitive and social skills;

c. ensures continuity in the program with instruction in the early elementary grades;

d. encourages children to be self-assured and independent;

e. encourages the co-location and integration of children with special needs;

f. utilizes staff who meet the qualifications set forth pursuant to the rules of the board of regents;

g. provides for strong parental partnerships and involvement in the implementation of and participation in the plan; [~~and~~]

h. provides staff development and teacher training **for staff and teachers in all settings in which prekindergarten services are provided pursuant to this section**; and

i. establishes a method for selection of eligible children to receive prekindergarten program services **on a random selection basis** where there are more eligible children than can be served in a given school year**, provided, however, that a school district that operated a targeted prekindergarten program in the base year may use the selection process established for such program**.

8. Each application for a prekindergarten program pursuant to this section shall be on a form prescribed by the commissioner and shall include, but not be limited to:

a. a [~~detailed~~] **prekindergarten program** plan identifying specific goals, including how the district will expand its program to assure that all eligible children may be served, and a proposed timetable for the implementation and achievement of such goals;

b. a proposed budget and a description of the proposed use of the grant funds including the mechanism for the distribution of such funds;

c. the local share to be used, as defined by the commissioner, which may include resources which may be available from the community;

d. the participation and contribution of each of the collaborative partners; and

e. a description of any costs associated with the administration of the program.

[~~f. for the two thousand six--two thousand seven school year, the district may include in its application a description of how its program would be expanded if it receives a prekindergarten expansion award pursuant to paragraph c of subdivision ten-a of this section.~~]

9. [~~a.~~] Each year, the commissioner shall determine the [~~school districts~~] **maximum allocation** that **each district** would be eligible to receive [~~funds~~] pursuant to this section in the following school year based on pupil data on file with the commissioner on a date prescribed by the commissioner, and applying the formula specified in subdivision [~~ten or ten-a~~] **ten-b** of this section. No later than [~~November fifteenth~~] **April thirtieth** of the base year, the commissioner shall notify [~~such~~] districts [~~that~~] **of the maximum allocations** they may be eligible for [~~a grant~~] pursuant to this section in the following school year, and [~~shall identify those districts for which funds will first become available in such school year and are required to form an advisory board and conduct a public hearing pursuant to subdivision three of this section, provided that for grants for the nineteen hundred ninety-eight--ninety-nine school year, such notice shall be given on or before January thirty-first, nineteen hundred ninety-eight, and for grants for the two thousand six--two thousand seven school year, such notice shall be given on or before April thirtieth, two thousand six~~] **such maximum allocations shall be deemed final and not subject to change thereafter**.

b. The board of regents and the commissioner shall develop criteria for awarding all grants pursuant to this section. The commissioner shall give preference to those applications which demonstrate innovative methods for serving eligible children, are strong collaborative arrangements which maximize, to the extent possible, the utilization of existing resources of the school district, eligible agencies and the community, have an immediate capacity for providing services, and which can most effectively address the prekindergarten needs of each of the eligible children.

10. [~~Prekindergarten~~] **Universal prekindergarten** aid. [~~a. Definitions. (1) For aid payable in the school year nineteen hundred ninety-eight--ninety-nine, aid per prekindergarten pupil shall equal the sum of six hundred dollars and the product of four thousand dollars and the adjusted sharing ratio, provided however that the aid per prekindergarten pupil is not less than two thousand seven hundred dollars, nor more than four thousand dollars.~~

~~(1-a) For aid payable in the school year nineteen hundred ninety-nine--two thousand and the school year two thousand--two thousand one, aid per prekindergarten pupil shall equal the sum of six hundred dollars and the product of four thousand dollars and the adjusted sharing ratio, provided however that the aid per prekindergarten pupil is not less than two thousand seven hundred nor more than four thousand dollars, and provided further that for aid payable in the two thousand--two thousand one school year the aid per prekindergarten pupil shall be the amount calculated and deemed to be final based on data set forth for each school district in the school aid computer listing for that school year which was produced by the commissioner in support of the education, labor and family assistance budget.~~

~~(1-b) For aid payable in the school year two thousand one--two thousand two and thereafter, aid per prekindergarten pupil shall equal the sum of two hundred sixty dollars and the product of four thousand dollars and the adjusted sharing ratio, provided however that the aid per prekindergarten pupil is not less than two thousand nor more than four thousand dollars.~~

~~(2) The adjusted sharing ratio shall be the product of the district's state sharing ratio for comprehensive operating aid calculated pursuant to paragraph b of subdivision three of section three thousand six hundred two of this article and the adjustment factor.~~

~~(3) For aid payable in the school year nineteen hundred ninety-eight--ninety-nine, the adjustment factor shall be computed by adding to one the quotient of (i) the positive remainder resulting when nine hundred twenty-three thousandths is subtracted from the quotient of the extraordinary needs count divided by the district's base year public school enrollment, divided by (ii) forty-seven thousandths, provided however that such factor shall not be less than one.~~

~~(3-a) For aid payable in the school year nineteen hundred ninety-nine--two thousand, the adjustment factor shall be computed by adding to one the quotient of (i) the positive remainder resulting when nine hundred three thousandths is subtracted from the quotient of the extraordinary needs count divided by the district's base year public school enrollment, divided by (ii) forty-seven thousandths, provided however that such factor shall not be less than one.~~

~~(3-b) For aid payable in the school year two thousand--two thousand one, the adjustment factor shall be computed by adding to one the quotient of (i) the positive remainder resulting when eight hundred ninety-five thousandths is subtracted from the quotient of the extraordinary needs count divided by the district's base year public school enrollment, divided by (ii) forty-seven thousandths, provided however that such factor shall not be less than one.~~

~~(3-c) For aid payable in the school year two thousand one--two thousand two and thereafter, the adjustment factor shall be computed by adding to one the quotient of (i) the positive remainder resulting when ninety-four hundredths is subtracted from the quotient of the extraordinary needs count divided by the district's base year public school enrollment, divided by (ii) forty-seven thousandths, provided however that such factor shall not be less than one.~~

~~(4) Unserved prekindergarten pupils shall mean the number of resident children who attain the age of four before December first of the school year, but who will not be served during such school year by a state-funded prekindergarten program, provided, however, that for a summer prekindergarten program as authorized by paragraph l of subdivision twelve of this section, "eligible children" shall mean resident children who are five years of age on or after December first of the year in which they are enrolled or who will otherwise be first eligible to enter public school kindergarten commencing with the current school year.~~

~~(5) Phase-in factor. For a school district in a city with a population in excess of one million inhabitants, the phase-in factor shall be sixteen hundredths (.16) for aid payable in the nineteen hundred ninety-eight--ninety-nine school year, two hundred ninety-nine thousandths (.299) for aid payable in the nineteen hundred ninety-nine--two thousand school year, sixty-six hundredths (.66) for aid payable in the two thousand--two thousand one school year, and one for aid payable in the two thousand one--two thousand two school year and thereafter. For school districts not in a city with a population in excess of one million inhabitants, the phase-in factor shall be two hundred ninety-five thousandths (.295) for aid payable in the nineteen hundred ninety-eight--ninety-nine school year, five hundred twenty-five thousandths (.525) for aid payable in the nineteen hundred ninety-nine--two thousand school year, and one for aid payable in the two thousand--two thousand one school year and thereafter.~~

~~(6) Aidable prekindergarten pupils. For a school district in a city with a population in excess of one million inhabitants, aidable prekindergarten pupils shall equal the product of (i) the applicable phase-in factor and (ii) unserved prekindergarten pupils. For a school district not in a city with a population in excess of one million inhabitants, aidable prekindergarten pupils shall equal the product of (i) the applicable phase-in factor, (ii) unserved prekindergarten pupils, and (iii) for aid payable in the school years nineteen hundred ninety-eight--ninety-nine through two thousand--two thousand one, the percent of eligible applicants for the free and reduced price lunch program as defined in subdivision one of section three thousand six hundred two of this article.~~

~~b. For aid payable in the nineteen hundred ninety-eight--ninety-nine through the two thousand--two thousand one school years, for districts for which aidable prekindergarten pupils is greater than or equal to twenty, grants payable pursuant to this section shall equal the product of aid per prekindergarten pupil and the lesser of: its aidable prekindergarten pupils, or the number of pupils served. For aid payable in the two thousand one--two thousand two school year and thereafter, grants payable pursuant to this section shall equal the product of aid per prekindergarten pupil and the lesser of: its aidable prekindergarten pupils, or the number of pupils served. For purposes of this paragraph, "the number of pupils served" shall mean the sum of (i) the unduplicated count of eligible children registered to receive educational services pursuant to this section on a date prior to November first of the current school year specified by the commissioner or, for aid payable in the 2000--01 school year, for any district first commencing a program pursuant to this subdivision, the unduplicated count of eligible children registered to receive educational services pursuant to this section on an alternate date prior to February first specified by the commissioner and (ii) the weighted unduplicated count of eligible children registered to receive educational services in a summer prekindergarten program as authorized by paragraph 1 of subdivision twelve of this section, as reported to the commissioner. Aid calculated pursuant to this section for programs operated in the city school district of the city of New York shall be calculated on a citywide basis.~~

~~c. In the event the appropriation for purposes of this section in any year is less than the sum of the grants payable to all school districts as computed pursuant to paragraph b of this subdivision without adjustment, the commissioner may adjust individual school district allocations to conform to the appropriation.~~

~~d. For grants payable in the nineteen hundred ninety-eight--ninety-nine school year, the statewide total amount of all grants pursuant to this section shall not exceed sixty-seven million dollars ($67,000,000). For grants payable in the nineteen hundred ninety-nine--two thousand school year, the statewide total amount of all grants pursuant to this section shall not exceed one hundred million dollars ($100,000,000). For grants payable in the two thousand--two thousand one school year, the statewide total amount of all grants pursuant to this section shall not exceed two hundred twenty-five million dollars ($225,000,000). For grants payable in the two thousand one--two thousand two school year, the statewide total amount of all grants pursuant to this section shall not exceed five hundred million dollars ($500,000,000).~~

~~e. Notwithstanding any other provision of this section, the total grant payable pursuant to this section shall equal the lesser of: (i) the total grant amount computed pursuant to paragraphs a, b or c of this~~

~~subdivision, as applicable, based on data on file with the commissioner as of April thirtieth of the school year for which such grant is payable or (ii) the total actual grant expenditures incurred by the school district as approved by the commissioner.~~

~~f. (1) For aid payable for the two thousand -- two thousand one school year, where the trustees or board of education of a school district eligible to receive funds pursuant to this section does not provide a universal pre-kindergarten program or does not serve all aidable pupils in the current year, funds may be deposited in the universal prekindergarten reserve fund established pursuant to section ninety-seven-vvv of the state finance law for future use in an amount not to exceed the product of the aid per prekindergarten pupil for the current school year and the district's aidable prekindergarten pupils for the current school year. School districts must submit an application to the commissioner by September first of the current school year, requesting such funds to be deposited in the universal prekindergarten reserve fund. Within five business days of receipt of an application that conforms to the requirements of this section, the commissioner with the approval of the director of the budget shall authorize and direct the comptroller to transfer such funds from the general fund to the universal prekindergarten reserve fund. In addition to the information required pursuant to subdivision eight of this section, the district's application shall explain the basis for not serving all aidable pupils in the current year. Upon approval of such application, the set aside requirement contained in paragraph e of subdivision five and the provisions of subdivision sixteen of this section shall not apply until the first year of operation of the universal prekindergarten program, at which time the set aside shall be applied to the total amount of funds to be expended for the universal prekindergarten program in the school district budget for the current year, unless a waiver is granted in accordance with paragraph e of subdivision five of this section. For purposes of the advisory board and public hearing requirements of subdivision three of this section, the first school year in which grant funds would be deposited in such universal prekindergarten reserve account shall be deemed to be the school year in which funds will first become available to the school district.~~

~~(2) Notwithstanding any other provision of law, rule or regulation to the contrary, the trustees or board of education of a school district which has funds deposited in such universal prekindergarten reserve fund shall be authorized to receive moneys from such reserve fund for approved expenditures under this section and must notify the commissioner prior to September first of the current year of an intent to initiate a universal prekindergarten program within the current year. Notwithstanding paragraph b of this subdivision, the grant payable pursuant to this section for a school district for which a grant award is deposited in the universal prekindergarten reserve fund shall not exceed the product of aid per prekindergarten pupil and its aidable prekindergarten pupils.~~

~~10-a. Supplemental prekindergarten aid. Notwithstanding any provision of law to the contrary, in addition to amounts awarded pursuant to subdivision ten of this section, for the two thousand six-two thousand seven school year and thereafter, a school district shall be eligible for an additional grant which shall be computed pursuant to this subdivision.~~

~~a. For aid payable in the two thousand six-two thousand seven school year and thereafter, school districts for which the number of aidable~~

~~prekindergarten pupils is greater than or equal to twenty shall be eligible to receive an additional grant amount equal to the product of aid per prekindergarten pupil and the lesser of: its aidable prekindergarten pupils, or the number of pupils receiving services in the current year, provided however that a city school district in a city having a population of one million or more shall be eligible for an additional grant amount not to exceed twenty-five million dollars.~~

~~b. For purposes of paragraph a of this subdivision:~~

~~(i) "aid per prekindergarten pupil" shall equal the greater of (A) the sum of six hundred dollars and the product of four thousand dollars and the adjusted sharing ratio, provided however that the aid per prekindergarten pupil is not less than two thousand seven hundred nor more than four thousand dollars, or (B) the aid per prekindergarten pupil calculated pursuant to subdivision ten of this section for the two thousand--two thousand one school year, based on data on file for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand--two thousand one school year and entitled "SA000-1";~~

~~(ii) "the adjusted sharing ratio" shall mean the product of the district's state sharing ratio for comprehensive operating aid calculated pursuant to paragraph b of subdivision three of section thirty-six hundred two of this article and the adjustment factor;~~

~~(iii) "the adjustment factor" shall be computed by adding to one the quotient of (A) the positive remainder resulting when ninety-four hundredths is subtracted from the quotient of the extraordinary needs count computed pursuant to paragraph s of subdivision one of section thirty-six hundred two of this article, divided by the district's base year public school enrollment computed pursuant to paragraph n of subdivision one of section thirty-six hundred two of this article, divided by (B) forty-seven thousandths;~~

~~(iv) "aidable prekindergarten pupils" shall equal the product of: (A) the unadjusted aidable prekindergarten pupils, (B) the percent of eligible applicants for the free and reduced price lunch program as defined in paragraph p of subdivision one of section thirty-six hundred two of this article, and (C) the applicable phase-in factor;~~

~~(v) the "phase-in factor" for the two thousand six--two thousand seven school year shall be thirty-eight hundred forty-eight ten-thousandths (0.3848) for all school districts;~~

~~(vi) "unserved prekindergarten pupils" shall mean the number of resident children who attain the age of four before December first of the school year, but who will not be served during such school year by a state-funded prekindergarten program other than a program funded pursuant to this section;~~

~~(vii) "the number of pupils served" shall mean the unduplicated count of eligible children registered to receive educational services pursuant to this section in the school year prior to the base year, including the weighted unduplicated count of eligible children registered to receive educational services in a summer prekindergarten program as authorized by paragraph 1 of subdivision twelve of this section;~~

~~(viii) "the prekindergarten pupil equivalent" shall mean the quotient of the grant awarded pursuant to this section in the two thousand five--two thousand six school year, as computed based on data on file for the school aid computer listing produced by the commissioner in February two thousand six, divided by the aid per kindergarten pupil calculated pursuant to subdivision ten of this section for the two thousand--two thousand one school year, based on data on file for the school aid~~

~~computer listing produced by the commissioner in support of the enacted budget for the two thousand--two thousand one school year and entitled "SA000-1";~~

~~(ix) "unadjusted aidable prekindergarten pupils" shall mean the positive difference, if any, of the unserved prekindergarten pupils less the lesser of the number of pupils served or the prekindergarten pupil equivalent, provided, however, that if the district received a grant in the base year pursuant to this section and if the number of pupils served is equal to zero, then "unadjusted aidable prekindergarten pupils" shall mean the positive difference, if any, of the unserved prekindergarten pupils less the prekindergarten pupil equivalent.~~

~~c. In the event that the sum of the total grants awarded pursuant to paragraph a of this subdivision is less than the sum of the total grants computed and available to school districts pursuant to paragraph a of this subdivision, then the commissioner may make prekindergarten expansion awards to districts for additional programs and services for unadjusted aidable prekindergarten pupils, based on applications submitted pursuant to paragraph f of subdivision eight of this section, in a total amount not to exceed the positive difference, if any, of such sum of the total grants computed and available to school districts less such sum of the total grants awarded pursuant to paragraph a of this subdivision.~~

~~d. Notwithstanding any other provision of this section, the total grant payable pursuant to this section shall equal the lesser of: (i) the total grant amounts computed pursuant to this subdivision and subdivision ten of this section for the current year, as applicable, based on data on file with the commissioner as of April thirtieth of the school year for which such grants are payable or (ii) the total actual grant expenditures incurred by the school district as approved by the commissioner.~~] **Notwithstanding any provision of law to the contrary, for aid payable in the two thousand seven--two thousand eight school year and thereafter, the grant to each eligible school district for universal prekindergarten aid shall be computed pursuant to this subdivision.**

a. Each school district shall be eligible to receive a grant amount equal to the greater of (i) its prekindergarten aid base and (ii) the lesser of the product of aid per prekindergarten pupil and the number of aidable prekindergarten pupils served in the current year, as determined pursuant to regulations of the commissioner, or the maximum allocation computed pursuant to subdivision nine of this section.

b. For purposes of paragraph a of this subdivision:

(i) "Aid per prekindergarten pupil" shall equal the product of five-tenths and the school district's selected foundation aid for the current year;

(ii) "Aidable prekindergarten pupils". For the two thousand seven--two thousand eight through two thousand nine--two thousand ten school years, "aidable prekindergarten pupils" shall equal the product of the unserved prekindergarten pupils and the applicable prekindergarten phase-in factor, and for the two thousand ten--two thousand eleven school year and thereafter, "aidable prekindergarten pupils" shall equal the unserved prekindergarten pupils;

(iii) The "prekindergarten phase-in factor" (1) for the two thousand seven--two thousand eight through the two thousand nine--two thousand ten school years, the prekindergarten phase-in factor shall equal the sum of the minimum prekindergarten phase-in factor plus the product of (A) the positive difference, if any, of the percent of eligible applicants for the free and reduced price lunch program computed pursuant to paragraph p of subdivision one of section thirty-six hundred two of this

article less the minimum FRPL factor, multiplied by (B) the quotient of the positive difference of the maximum prekindergarten phase-in factor less the minimum prekindergarten phase-in factor divided by the positive difference of the maximum FRPL factor less the minimum FRPL factor, provided, however, that in no case shall the prekindergarten phase-in factor be less than the minimum prekindergarten phase-in factor nor more than the maximum prekindergarten phase-in factor;

(2) (A) for the two thousand seven--two thousand eight school year, the minimum prekindergarten phase-in factor shall equal twenty-five percent, the maximum prekindergarten phase-in factor shall equal seventy-five percent, the minimum FRPL factor shall equal thirty-five percent and the maximum FRPL factor shall equal eighty percent;

(B) for the two thousand eight--two thousand nine school year, the minimum prekindergarten phase-in factor shall equal twenty-five percent, the maximum prekindergarten phase-in factor shall equal seventy percent, the minimum FRPL factor shall equal forty-five percent and the maximum FRPL factor shall equal eighty-four percent;

(C) for the two thousand nine--two thousand ten school year, the minimum prekindergarten phase-in factor shall equal ten percent, the maximum prekindergarten phase-in factor shall equal sixty percent, the minimum FRPL factor shall equal sixty-five percent and the maximum FRPL factor shall equal ninety-one percent;

(iv) the "prekindergarten aid base" shall mean the sum of the amounts the school district received for the two thousand six--two thousand seven school year for grants awarded pursuant to this section and for targeted prekindergarten grants, provided that such amount computed and payable as of June thirtieth of the school year immediately following the school year for which such aid is claimed shall be deemed final and not subject to change;

(v) "unserved prekindergarten pupils" shall mean the number of resident children who attain the age of four before December first of the school year, but who will not be served during such school year by a prekindergarten program approved pursuant to section forty-four hundred ten of this chapter, where such services are provided for more than four hours per day.

c. Notwithstanding any other provision of this section, the total grant payable pursuant to this section shall equal the lesser of: (i) the total grant amounts computed pursuant to this subdivision for the current year, based on data on file with the commissioner as of April thirtieth of the school year for which such grants are payable or (ii) the total actual grant expenditures incurred by the school district as approved by the commissioner.

11. Notwithstanding the provisions of [~~subdivisions~~] **subdivision** ten [~~and ten-a~~] of this section, where [~~less in local funds is expended~~] **the district serves fewer children** during the current year than in the base year [~~for prekindergarten services to eligible children~~], the school district shall have its apportionment reduced in an amount [~~equal~~] **proportional** to such deficiency in the current year or in the succeeding school year, as determined by the commissioner, except [~~for the school years nineteen hundred ninety-nine--two thousand through two thousand six--two thousand seven,~~] such reduction shall not apply to school districts which have fully implemented a universal pre-kindergarten program by [~~serving~~] **making such program available to** all eligible children [~~in the nineteen hundred ninety-eight--ninety-nine school year~~]. Expenses incurred by the school district in implementing a pre-kinder-

garten program plan pursuant to this subdivision shall be deemed ordinary contingent expenses.

12. The board of regents and the commissioner shall be authorized to adopt regulations to implement the provisions of this section. In developing such regulations, the board of regents and the commissioner shall consider and seek to coordinate any regulations which may currently be applicable to any existing programs or eligible agencies. In addition, the regents when developing regulations shall consider and recognize the diversity of settings and models available for the delivery of prekindergarten programs. Such regulations shall include but not be limited to:

a. qualifications for the staff of a prekindergarten program;

b. [~~transitional guidelines and rules which allow a program to meet the required staff qualifications by the start of school year two thousand seven--two thousand eight;~~

~~c. transitional guidelines and rules which allow a prekindergarten program to meet any other requirements set forth pursuant to this section and regulations adopted by the board of regents and the commissioner;~~

~~d.~~] health and safety standards;

[~~e.~~] **c.** time requirements which reflect the needs of the individual school districts for flexibility, but meeting a minimum weekly time requirement;

[~~f.~~] **d.** the staff/child ratio;

[~~g.~~] **e.** reasonable grounds and basis for the non-acceptance of a proposal submitted to the school district when the proposal otherwise meets, to the extent applicable, all the regulations of the commissioner and the requirements set forth in this subdivision, as well as subdivisions seven and eight of this section;

[~~h.~~] **f.** any other program components, such as health, nutrition or support services, which the regents deem appropriate and necessary for the appropriate and effective implementation of a prekindergarten program;

[~~i. commencing July first, nineteen hundred ninety-nine, and continuing until June thirtieth, two thousand two, a requirement that the district give preference to serving eligible children who are economically disadvantaged, as defined by the commissioner~~]

g. a provision for a waiver of any inconsistent provisions of this section or the regulations implementing this section to allow school districts that operated a targeted prekindergarten program in the two thousand six--two thousand seven school year to continue to operate such program pursuant to the regulations of the commissioner that applied to targeted prekindergarten programs in such school year; provided that, notwithstanding any other provision of this section to the contrary, the amounts allocated to such targeted prekindergarten program from grants awarded pursuant to this section shall not exceed the amount of targeted prekindergarten grant funds received by the district for the two thousand six--two thousand seven school year;

[~~j.~~] **h.** a process by which a school district must submit an application;

[~~k.~~] **i.** a definition of the approved expenditures for which grant funds may be used, which shall include but not be limited to transportation services and lease expense or other appropriate facilities expenses; and

[~~l.~~] **j.** a process for the waiver of the time requirements established pursuant to this subdivision in order to authorize the operation of a

summer universal prekindergarten program limited to the months of July and August, upon a finding by the commissioner that the school district is unable to operate the program during the regular school session because of a lack of available space pursuant to regulations of the commissioner. Notwithstanding any other provision of this section to the contrary, such process shall provide for a reduction of the aid per prekindergarten pupil payable for pupils served pursuant to such waiver by one one-hundred eightieth of the aid per prekindergarten pupil determined pursuant to paragraph a of subdivision ten or subparagraph (i) of paragraph b of subdivision ten-a of this section for each day less than one hundred eighty days that the summer program is in session.

13. Each school district that has implemented a prekindergarten program shall on an annual basis report to the board of regents, the commissioner, parents, teachers and the public on the status of such program.

14. On February fifteenth, two thousand, and annually thereafter, the commissioner and the board of regents shall include in its annual report to the legislature, information on school districts receiving grants under this section; the amount of each grant; a description of the program that each grant supports and an assessment by the commissioner of the extent to which the program meets measurable outcomes required by the grant program or regulations of such commissioner; and any other relevant information. Such report shall also contain any recommendations to improve or otherwise change the program.

15. The commissioner shall also provide for [~~an independent~~] **a system for** evaluation and assessment[~~, by an evaluator not affiliated with the department or any school district,~~] of the prekindergarten programs which have been implemented to determine the short and long-term success, outcomes and effects of the programs based on relevant and measurable performance standards.

16. The grant payable to a school district pursuant to this section in the current year shall be reduced by one one-hundred eightieth for each day less than one hundred eighty days that the universal prekindergarten classes of the district were actually in session, except that the commissioner may disregard such reduction for any deficiency that may be disregarded in computing [~~operating~~] **total foundation** aid pursuant to subdivision seven or eight of section thirty-six hundred four of this chapter.

[~~**17. Notwithstanding the provisions of this section, for aid payable in the two thousand two--two thousand three through the two thousand four--two thousand five, and two thousand six--two thousand seven school years, each school district shall be eligible to receive a grant award in an amount not to exceed the maximum prekindergarten grant award which shall be the sum of (i) the amount set forth for such school district for the two thousand one--two thousand two school year on the computer listing produced by the commissioner in support of the executive budget request for such year and entitled "BT032-1" under the heading, "PREKINDERGARTEN", plus (ii) for those districts that were eligible to receive a supplemental grant award for the purposes of this section pursuant to part B of chapter 149 of the laws of 2001, an amount equal to the positive difference between the amount the school district was eligible to receive based on data on file with the commissioner on February fifteenth, two thousand and the amount set forth for the purposes of grants pursuant to this section for such school district for the two thousand one--two thousand two school year in such computer listing entitled "BT032-1". Provided, however, that a school district receiving**~~

~~aid under this section shall be required to comply with all district plans and other requirements under this section for the receipt of funds.~~]

§ 20. Paragraph (a) of subdivision 3 of section 2851 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

(a) The board of education of a school district eligible for an apportionment of aid under subdivision [~~twelve~~] **four** of section thirty-six hundred two of this chapter, provided that a board of education shall not approve an application for a school to be operated outside the school district's geographic boundaries and further provided that in a city having a population of one million or more, the chancellor of any such city school district shall be the charter entity established by this paragraph;

§ 21. Subdivision 5-b of section 2852 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

5-b. If the board of regents returns a proposed charter to the charter entity pursuant to the provisions of subdivision five-a of this section, such charter entity shall reconsider the proposed charter, taking into consideration the comments and recommendation of the board of regents. Thereafter, the charter entity shall resubmit the proposed charter to the board of regents with modifications, provided that the applicant consents in writing to such modifications, resubmit the proposed charter to the board of regents without modifications, or abandon the proposed charter. The board of regents shall review each such resubmitted proposed charter in accordance with the provisions of subdivision five-a of this section; provided, however, that it shall be the duty of the board of regents to approve and issue a proposed charter resubmitted by the charter entity described in paragraph (b) of subdivision three of section twenty-eight hundred fifty-one of this article **or by the chancellor of a city school district in a city having a population of one million** within thirty days of the resubmission of such proposed charter or such proposed charter shall be deemed approved and issued at the expiration of such period.

§ 22. Subdivision 9 of section 2852 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

9. The total number of charters issued pursuant to this article shall not exceed [~~one~~] **two** hundred **fifty**. [~~Fifty~~] **One hundred** of such charters shall be issued on the recommendation of the charter entity described in paragraph (b) of subdivision three of section twenty-eight hundred fifty-one of this article, and [~~fifty~~] **one hundred fifty** of such charters shall be issued on the recommendation of the other charter entities set forth in subdivision three of section twenty-eight hundred fifty-one of this article**, provided that fifty of the additional charters authorized to be issued by amendment of this subdivision effective July first, two thousand seven shall be reserved for the chancellor of a city school district of a city having a population of one million or more**. The failure of any body to issue the regulations authorized pursuant to this article shall not effect the authority of a charter entity to propose a charter to the board of regents or the board of regents' authority to grant such charter. A conversion of an existing public school to a charter school or the renewal or extension of a charter shall not be counted toward the numerical limits established by this subdivision.

§ 23. Section 2852 of the education law is amended by adding a new subdivision 10 to read as follows:

10. Except in the case of a charter school formed by a school district as a charter entity pursuant to paragraph (a) of subdivision three of section twenty-eight hundred fifty-one of this article, a charter school formed by approval of the regents or by operation of law on or after March fifteenth in any school year shall not commence instruction until July of the second school year next following.

§ 24. Subdivision 1 of section 2856 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

1. **(a)** The enrollment of students attending charter schools shall be included in the enrollment, attendance**, membership** and, if applicable, count of students with disabilities of the school district in which the pupil resides. The charter school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance and count of students with disabilities to the department. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the school district**, the charter school basic tuition which shall be** an amount equal to one hundred percent of the amount calculated pursuant to paragraph f of subdivision one of section thirty six hundred two of this chapter for the school district for the year prior to the base year increased by the percentage change in the state total approved operating expense calculated pursuant to **paragraph t of** subdivision [~~eleven~~] **one** of section [~~thirty six~~] **thirty-six** hundred two of this chapter from two years prior to the base year to the base year.

(b) The school district shall also pay directly to the charter school any federal or state aid attributable to a student with a disability attending charter school in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly. Notwithstanding anything in this section to the contrary, amounts payable pursuant to this subdivision may be reduced pursuant to an agreement between the school and the charter entity set forth in the charter. Payments made pursuant to this subdivision shall be made by the school district in six substantially equal installments each year beginning on the first business day of July and every two months thereafter. Amounts payable under this subdivision shall be determined by the commissioner. Amounts payable to a charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter. Such projections shall be reconciled with the actual enrollment at the end of the school's first year of operation, and any necessary adjustments shall be made to payments during the school's second year of operation.

§ 25. Subdivision 1 of section 2857 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

1. The board of regents shall distribute information announcing the availability of the charter school process described in this article to each local school district and public postsecondary educational institution. At each significant stage of the chartering process, the charter entity and the board of regents shall provide appropriate notification to the school district in which the charter school is located and to public and nonpublic schools in the same geographic area as the proposed charter school. **Such notification shall be provided by each charter entity within thirty days of its receipt of an application for formation of a new charter school or for renewal of an existing charter school, and at least forty-five days prior to initial approval of the charter application by the charter entity.** Prior to the issuance or renewal of a

charter, the school district in which the charter school is located shall be given an opportunity to comment on the proposed charter to the charter entity. In addition, such school district may hold a public hearing to solicit comments from the community in connection with the foregoing.

§ 26. Paragraph b, subparagraph 2 of paragraph c and subparagraph 6 of paragraph d of subdivision 5 of section 3202 of the education law, paragraph b as added by chapter 47 of the laws of 1977, subparagraph 2 of paragraph c as added by chapter 66 of the laws of 1978, and subparagraph 6 of paragraph d as added by chapter 721 of the laws of 1979 and as renumbered by chapter 57 of the laws of 1993, and such subdivision as renumbered by chapter 563 of the laws of 1980, are amended to read as follows:

b. Children who reside in a school for the mentally retarded operated by the department of mental hygiene and for whose support and maintenance the department assumes responsibility on or after July one, nineteen hundred seventy-seven and who are thereafter placed in a family home at board, a duly incorporated orphan asylum or other institution for the care, custody and treatment of children shall be admitted to the schools of the school district in which such family home or institution is located. The education department is authorized to reimburse each school district furnishing educational services to such children for the direct cost of such services in accordance with regulations promulgated by the commissioner and approved by the director of the budget. The educational costs for these children shall not be otherwise aidable or reimbursable. The school district in which the child resided at the time the department of mental hygiene assumed responsibility for the support and maintenance of such child shall reimburse the education department for its expenditure on behalf of such child in an amount equal to the school district basic contribution, as such term is defined in subdivision eight of section four thousand four hundred one of this chapter. The comptroller may deduct from any state funds which become due to a school district an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the [~~**apportionment for**~~] **approved** operating expense pursuant to **paragraph t of** subdivision [~~**eleven**~~] **one** of section [~~**three thousand six**~~] **thirty-six** hundred two of this chapter. The department of mental hygiene shall notify the education department of the name of the child, the location of the family home or institution where the child is to be placed and the name of the school district in which such child resided at the time the department of mental hygiene assumed responsibility for his **or her** support and maintenance.

(2) The school district in which each such child resided at the time the office of mental retardation and developmental disabilities assumed responsibility for the support and maintenance of such child shall reimburse the education department for its expenditures on behalf of such child, in an amount equal to the school district basic contribution as such term is defined in subdivision eight of section forty-four hundred one of this chapter, for any such child admitted to a state school for the retarded on or after July first, nineteen hundred seventy-eight. The comptroller may deduct from any state funds which become due to a school district an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph and the amount so deducted shall not be included in the **approved** operating expense of such

district for the purpose of computing the [~~apportionment for~~] **approved** operating expenses pursuant to **paragraph t of** subdivision [~~eleven~~] **one** of section thirty-six hundred two of this chapter.

(6) Upon certification by the commissioner of education, the comptroller may deduct from any state funds which become due to the school district an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the [~~apportionment for~~] **approved** operating expenses pursuant to **paragraph t of** subdivision [~~eleven~~] **one** of section thirty-six hundred two of this article.

§ 27. Paragraph b of subdivision 7 of section 3202 of the education law, as amended by chapter 564 of the laws of 2001, is amended to read as follows:

b. Except as otherwise provided in this paragraph, the school district in which the child resided at the time of the child's commitment to the custody of the sheriff or local commissioner of corrections or youth shelter shall reimburse the education department for its expenditure for the full time equivalent attendance of such child pursuant to subdivision [~~thirty-five~~] **thirteen** of section thirty-six hundred two of this chapter on behalf of such child, in an amount equal to the product of such full time equivalent attendance and the school district basic contribution, as such term is defined in subdivision eight of section forty-four hundred one of this chapter, provided, however, that such basic contribution shall be multiplied by the full time equivalent attendance multiplied by one hundred twenty per centum for such children attending programs which operate between July first and June thirtieth. If at the applicable time specified in this paragraph a school district other than the school district in which the child resides is responsible for the cost of instruction of the child or for reimbursement of the state for its expenditure on behalf of the child pursuant to any provision of this chapter, then such other school district shall be responsible for reimbursement of the education department in accordance with this paragraph. Upon certification by the commissioner, the comptroller shall deduct from any state funds which become due to a school district an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the approved operating expense pursuant to **paragraph t of** subdivision [~~eleven~~] **one** of section thirty-six hundred two of this chapter.

§ 28. Paragraph b of subdivision 3 of section 3209 of the education law, as added by chapter 569 of the laws of 1994, is amended to read as follows:

b. The school district of origin shall reimburse the department for its expenditure for educational services on behalf of a homeless child pursuant to paragraph a of this subdivision in an amount equal to the school district basic contribution, as such term is defined in subdivision eight of section forty-four hundred one of this chapter, pro-rated for the period of time for which such services were provided in the base year by a school district other than the school district of origin. Upon certification by the commissioner, the comptroller shall deduct from any state funds which become due to the school district of origin an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of

computing the [~~apportionment for~~] **approved** operating expense pursuant to **paragraph t of** subdivision [~~eleven~~] **one** of section thirty-six hundred two of this chapter.

§ 29. Section 3602-b of the education law, as amended by section 36 of part L of chapter 405 of the laws of 1999, is amended to read as follows:

§ 3602-b. Apportionment of moneys to school districts employing fewer than eight teachers. 1. Notwithstanding any other provision of law, each school district of the state employing fewer than eight teachers shall receive its apportionment of public money payable during the school year commencing July first, nineteen hundred sixty-three and during subsequent school years pursuant to the provisions of this section. Such apportionment shall be computed by applying the state sharing ratio [~~for comprehensive operating aid~~] of the district computed in the same manner as provided in section thirty-six hundred two of this article to the approved **operating** expense of the school district for operating purposes and for transportation.

a. Approved operating expense shall be for the year prior to the base year as defined in section thirty-six hundred two of this article and shall be determined in the same manner provided in such section, provided, however, that the amount so approved shall not exceed the sum of (1) four thousand five hundred dollars multiplied by the lesser of the number of full-time teachers employed during such year prior to the base year or seven and (2) weighted average daily attendance as defined in section thirty-six hundred two of this article for the base year multiplied by the sum of sixty dollars plus an amount computed by multiplying ninety cents by such weighted average daily attendance. Any such district employing three or more teachers shall be permitted to use the weighted average daily attendance averaged over the three year period immediately preceding the current year as defined in section thirty-six hundred two of this article.

b. Approved transportation expense shall be for the base year and shall be determined in the same manner as provided in subdivision seven of section thirty-six hundred two of this chapter.

2. If the local revenue provided by any such school district in the current year, as defined in section thirty-six hundred two of this article, inclusive of its local nonproperty tax receipts, is less than the amount which could be raised by a tax at the rate [~~herein~~] specified **in this section** on its actual valuation as defined in such section, the apportionment for such current year shall be reduced by the amount which such local revenue is less than the amount which could be raised at such rate. The rate for the school year [~~nineteen hundred sixty-five--sixty-six~~] **two thousand seven--two thousand eight** and thereafter shall be [~~nine dollars per thousand~~] **the local tax factor established pursuant to subdivision four of section thirty-six hundred two of this article**.

§ 30. Subdivision 8 of section 3602-c of the education law, as amended by chapter 260 of the laws of 1993, is amended to read as follows:

8. Average daily attendance, as computed under the provisions of this section, shall be included in the average daily attendance **and average daily membership** of the school district furnishing services for all purposes under the provisions of section [~~three thousand six~~] **thirty-six** hundred two of this chapter, except that it shall not be used in the computation of resident weighted average daily attendance or total wealth pupil [~~unit or growth index~~] **units** or **total wealth foundation pupil units or** of aid [~~ratio~~] **ratios**.

§ 31. Subdivision 7 of section 3604 of the education law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

7. No district shall be entitled to any portion of such school moneys on such apportionment unless the report of the trustees or board of education for the preceding school year shall show that the public schools were actually in session in the district and taught by a qualified teacher or by successive qualified teachers or by qualified teachers for not less than one hundred eighty days. The moneys payable to a school district pursuant to section thirty-six hundred nine-a of this chapter in the current year shall be reduced by one one-hundred eightieth of the district's [~~operating~~] **total foundation** aid for each day less than one hundred eighty days that the schools of the district were actually in session, except that the commissioner may disregard such reduction, up to five days, in the apportionment of public money, if he finds that the schools of the district were not in session for one hundred eighty days because of extraordinarily adverse weather conditions, impairment of heating facilities, insufficiency of water supply, shortage of fuel, lack of electricity, natural gas leakage, unacceptable levels of chemical substances, or the destruction of a school building either in whole or in part, and if, further, the commissioner finds that such district cannot make up such days of instruction by using for the secondary grades all scheduled vacation days which occur prior to the first scheduled regents examination day in June, and for the elementary grades all scheduled vacation days which occur prior to the last scheduled regents examination day in June. For the purposes of this subdivision, "scheduled vacation days" shall mean days on which the schools of the district are not in session and for which no prohibition exists in subdivision eight of this section for them to be in session. [~~**The district's operating aid shall equal the greater of the amounts computed pursuant to paragraphs b and c of subdivision twelve of section thirty-six hundred two of this chapter or, if applicable, pursuant to paragraph b of subdivision fifteen of such section.**~~]

§ 32. The section heading, the opening paragraph, the opening paragraph of subdivision 1, subparagraph 2 of paragraph a, clauses (iii), (v) and (vii) of subparagraph 3 of paragraph b, subparagraph 5 of paragraph b of subdivision 1, and subdivision 3 of section 3609-a of the education law, the section heading and subparagraph 2 of paragraph a of subdivision 1 as amended by section 40 of part C of chapter 57 of the laws of 2004, the opening paragraph as amended by section 24 of part A-1 of chapter 58 of the laws of 2006, the opening paragraph of subdivision 1 and clause (iii) of subparagraph 3 of paragraph b of subdivision 1, subparagraph 5 of paragraph b of subdivision 1 and subdivision 3 as amended by chapter 474 of the laws of 1996, clause (v) of subparagraph 3 of paragraph b of subdivision 1 as amended by section 42 of part A of chapter 60 of the laws of 2000, and clause (vii) of subparagraph 3 of paragraph b of subdivision 1 as amended by section 15 of part L of chapter 57 of the laws of 2005, are amended to read as follows:

Moneys apportioned, when and how payable commencing July first, two thousand [~~**four**~~] **seven**. For aid payable in the [~~**two thousand four--two thousand five**~~] **two thousand seven--two thousand eight** school year and thereafter, "moneys apportioned" shall mean the lesser of (i) the sum of one hundred percent of the respective amount set forth for each school district as payable pursuant to this section in the school aid computer listing for the current year produced by the commissioner in support of the budget which includes the appropriation for the general support for public schools for the prescribed payments and individualized payments

due prior to April first for the current year plus the [~~**miscellaneous general aid apportionments which shall include: apportionments**~~] **apportionment** payable during the current school year pursuant to [~~**paragraph g of subdivision two, subdivision five and**~~] subdivision [~~**thirty-six**~~] **fifteen** of section thirty-six hundred two of this part minus any reductions to current year aids pursuant to subdivision seven of section thirty-six hundred four of this part or any deduction from apportionment payable pursuant to this chapter for collection of a school district basic contribution as defined in subdivision eight of section forty-four hundred one of this chapter, **less any grants provided pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law,** less any grants provided pursuant to subdivision twelve of section thirty-six hundred forty-one of this article, or (ii) the apportionment calculated by the commissioner based on data on file at the time the payment is processed; provided however, that for the purposes of any payments [~~**to be made for the months of April, May or June of the two thousand five--two thousand six school year such calculation shall be based on the school aid computer listing for the current year using updated data at the time of each payment; provided however, that for the purposes of any payments**~~] made pursuant to this section prior to the first business day of June of the current year, moneys apportioned shall not include any aids payable pursuant to subdivisions six and fourteen, if applicable, of section thirty-six hundred two of this part as current year aid for debt service on bond anticipation notes and/or bonds first issued in the current year or [~~**any aids payable as growth aid for the current year pursuant to subdivision thirteen of section thirty-six hundred two of this part or**~~] any aids payable for full-day kindergarten for the current year pursuant to subdivision [~~**twelve-a**~~] **nine** of section thirty-six hundred two of this part. The definitions of "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this part shall apply to this section. For aid payable in the [~~**two thousand six--two thousand seven**~~] **two thousand seven--two thousand eight** school year, reference to such "school aid computer listing for the current year" shall mean the printouts entitled [~~**"SA0607"**~~] **"BT552-5"**.

The GSPS appropriation shall be used to support payments made pursuant to this section, plus apportionments made pursuant to section seven hundred one, seven hundred eleven, seven hundred fifty-one, **seven hundred fifty-three,** thirty-two hundred two, thirty-six hundred nine-b, [~~**thirty-six hundred nine-c,**~~] thirty-six hundred forty-one and forty-four hundred five of this chapter, any other applicable allocations made pursuant to this chapter, but not paid pursuant to the schedule prescribed by this section or sections thirty-six hundred nine-b, [~~**thirty-six hundred nine-c, or**~~] thirty-six hundred nine-d **or thirty-six hundred nine-f** of this article; plus any unconsolidated law provisions which apply to programs funded from such appropriation; plus any sums paid out upon audit of the state comptroller as final adjustments of apportionments originally claimed and payable pursuant to this subdivision in prior school years; plus sums paid out as prior year adjustments, to the extent an allowance was included in such appropriation for such purpose. Any apportionments provided by this chapter shall be paid in accordance with this section unless specifically exempted.

(2) Lottery apportionment. Of the estimated moneys to be apportioned by the commissioner to school districts for the current year, that portion payable pursuant to section ninety-two-c of the state finance law, exclusive of the minimum lottery grant provided for the purchase of

textbooks pursuant to subparagraph one of paragraph b of subdivision four of section ninety-two-c of such law **and the lottery grant provided pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law**, shall be payable on the first state business day of September.

(iii) Determining final payment for the state fiscal year. Prior to transmitting the March payment to the state comptroller, based on current year, base year and prior school year state aid payments made or scheduled to be made from the general support for public schools [~~**and growth aid**~~] appropriations for the state fiscal year ending March thirty-first, the commissioner shall determine the extent to which the amount designated for June pursuant to clause (vi) of subparagraph two of this paragraph, as adjusted in accordance with clause (ii) of this subparagraph, net of any disallowances, would need to be advanced and paid on or before March thirty-first in order to use the remainder of such appropriations, on or before March thirty-first, or to the extent to which the amount designated for March would need to be proportionally reduced so as not to exceed such state fiscal year appropriations. The commissioner shall report the amount of money required to be advanced or deferred and the percent it represents of the June or March amounts, as the case may be, to the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee. To the extent that moneys are advanced or deferred pursuant to this paragraph, they shall be in the same proportion as each school district's share bears to the total of such June or March amount. Upon approval of the director of the budget, the commissioner shall transmit the schedule of any such partial June prepayments or such reduced March payments to the state comptroller. Any portion of the March payment deferred shall be added to the June payment; any portion of the June payment advanced shall be paid on or before March thirty-first.

(v) June payment. The moneys apportioned to school districts and designated for June pursuant to clause (vi) of subparagraph two of this paragraph shall be paid on the first state business day of such month, to the extent that moneys are owed to school districts pursuant to this section for the current year, including claims for current year aid for debt service on bond anticipation notes aidable in June and/or new bonds and capital notes aidable in June pursuant to subdivisions six and fourteen, if applicable, of section thirty-six hundred two of this article [~~**and claims for current year growth aid pursuant to subdivision thirteen of section thirty-six hundred two of this article**~~] and claims for current year aid for conversion to full day kindergarten pursuant to subdivision [~~**twelve-a**~~] **nine** of section thirty-six hundred two of this article, after taking into account any adjustments made in accordance with clauses (ii) and (iii) of this subparagraph, net of any disallowances[~~**, provided, however, that any aid for debt service on bond anticipation notes payable for the nineteen hundred ninety-six--ninety-seven school year in excess of the appropriation provided therefor shall be proportionally deferred to September nineteen hundred ninety-seven, and provided further, any such deferral shall be in the same proportion as a school district's share bears to the total moneys available respectively for such building aid for the nineteen hundred ninety-six--ninety-seven school year**~~].

(vii) Deferred September payments. Any amounts payable to a school district pursuant to this section which exceeded one hundred percent of the respective amount set forth for such district as payable pursuant to

this section in the school aid computer listing for the current school year shall be designated for payment for the month of September next following the close of the current school year. Such payments shall be made on the first state business day of the month of September, based on data on file as of August first[~~; provided however, that for the two thousand five--two thousand six school year such calculation shall be based on the computer listing for the current year using data on file as of August first, and shall include any deferrals made pursuant to clause (v) of this subparagraph~~].

(5) Advance payments. To the extent that any moneys payable pursuant to clauses (iv) and (v) of subparagraph two of this paragraph, are paid in advance of April first, such moneys shall be paid in accordance with chapter two hundred twenty of the laws of nineteen hundred ninety, as amended, and in the same proportion as such school district's share bears to the total moneys, payable to all such school districts pursuant to such clauses (iv) and (v) provided however, that any moneys so advanced shall be deducted first from a school district's payment due in April, then from any moneys due in May and finally from any remaining moneys due in June. [~~Any advance to be paid prior to April first, nineteen hundred ninety-four, shall be based on a plan submitted by the commissioner and approved by the director of the budget and shall be filed with the chair of the senate finance committee and the chair of the assembly ways and means committee. The amount of payments so accelerated shall not exceed the amount available from the proceeds of bonds sold by the local government assistance corporation in the period from April first, nineteen hundred ninety-three through March thirty-first, nineteen hundred ninety-four.~~]

3. [~~Any~~] **Except as otherwise provided by law,** payment to a school district pursuant to this section shall be general receipts of the district and may be used for any lawful purpose of the district provided, however that any payments for debt service for school building purposes on debt which has been excluded in ascertaining the power of the school district to contract indebtedness shall be used solely for the purpose of payment of the interest on and amortization of or payment of such indebtedness.

§ 33. The first and second undesignated paragraphs, paragraph a of subdivision 2 and subdivision 3 of section 3609-b of the education law, the first undesignated paragraph as added by chapter 57 of the laws of 1993, the second undesignated paragraph as amended by section 16 of part L of chapter 57 of the laws of 2005, paragraph a of subdivision 2 as amended by chapter 474 of the laws of 1996, subparagraph 5 of paragraph a of subdivision 2 as amended by section 17 of part L of chapter 57 of the laws of 2005, and subdivision 3 as amended by chapter 260 of the laws of 1993, is amended to read as follows:

Moneys apportioned to school districts for **the excess cost aid setaside pursuant to subdivision four of section thirty-six hundred two of this article, public high cost** excess cost apportionments for students with disabilities due in accordance with the provisions of subdivision [~~nineteen~~] **five** of section thirty-six hundred two of this article and section forty-four hundred five of this chapter, shall be paid to or on behalf of school districts in accordance with the provisions of this section, provided, however, that payments made to or on behalf of any school district pursuant to this section shall be adjusted subsequent to the filing, in an acceptable manner, of aid claim forms prescribed by the commissioner.

For aid payable in the [~~nineteen hundred ninety-six--ninety-seven~~] **two thousand seven--two thousand eight** school year and thereafter, "moneys apportioned" shall mean the lesser of (i) **the sum of** one hundred percent of the respective amount set forth for each school district as payable pursuant to this section in the school aid computer listing for the current year, as defined in the opening paragraph of section thirty-six hundred nine-a of this article, **plus the excess cost aid setaside computed pursuant to subdivision four of section thirty-six hundred two of this article, based on data utilized in producing such school aid listing for the current year** or (ii) the apportionment calculated by the commissioner for the current year based on data on file at the time the payment is processed; provided however, that for the purposes of any payments to be made in the months of June or August two thousand six such calculation shall be based on the school aid computer listing for the current year using updated data at the time of each payment. The definitions "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this article shall apply to this section.

a. The moneys apportioned by the commissioner to school districts in accordance with the provisions of subdivision [~~nineteen~~] **five** of section thirty-six hundred two of this article and section forty-four hundred five of this chapter **and the moneys apportioned to school districts for the excess cost aid setaside pursuant to subdivision four of section thirty-six hundred two of this article,** during the school year and remaining due after deductions are made for the purposes of subdivision one of this section, shall be payable[~~, for the nineteen hundred ninety-five--ninety-six school year, in accordance with a schedule developed by the commissioner after consultation with the commissioner of social services and approval by the director of the division of the budget, to the extent that reports due the commissioner have been filed in a proper manner, and shall be payable~~], for the nineteen hundred ninety-six--ninety-seven school year and thereafter in accordance with the following schedule:

(1) December payment. On or before December fifteenth, a portion shall be paid equal to the positive remainder of twenty-five percent of the moneys apportioned less any payments made pursuant to paragraph a of subdivision one **of** this section for the current year.

(2) March payment. On or before March fifteenth, a portion shall be paid equal to the positive remainder of seventy percent of the moneys apportioned less any payments made pursuant to paragraph a of subdivision one **of** this section and subparagraph one of this paragraph for the current year.

(3) June payment. On or before June fifteenth, a portion shall be paid equal to the positive remainder of eighty-five percent of the moneys apportioned less any payments made pursuant to paragraph a of subdivision one **of** this section and subparagraphs one and two of this paragraph for the current year.

(4) August payment. To the extent that any moneys are owed to a school district pursuant to this section, a portion shall be paid on or before August fifteenth equal to the positive remainder of one hundred percent of the moneys apportioned less any payments made pursuant to paragraph a of subdivision one **of** this section and subparagraphs one, two and three of this paragraph for the current year.

(5) Deferred September payment. Any amount payable to a school district pursuant to this section which exceeded one hundred percent of the respective amount set forth for such district as payable pursuant to

this section in the school aid computer listing for the current school year shall be designated for payment for the month of September next following the close of the current school year. Such payments shall be made on the first state business day of the month of September, based on data on file as of August first; provided however, that for the September two thousand six payment such calculation shall be based on the computer listing for the current year using data on file as of August first.

3. Due minimum supplemental apportionment. Notwithstanding any inconsistent provisions of subdivision [~~nineteen~~] **five** of section thirty-six hundred two of this article and section forty-four hundred five of this chapter, the due minimum supplemental apportionment shall equal the positive remainder resulting when the sum of the apportionments due a school district pursuant to such subdivision [~~nineteen~~] **five** and such section forty-four hundred five for any school year commencing with the nineteen hundred ninety-three--ninety-four school year **and, for the two thousand seven--two thousand eight school year and thereafter, the moneys apportioned for the excess cost aid setaside pursuant to subdivision four of section thirty-six hundred two of this article,** is subtracted from the amount designated as the state share of moneys due a school district pursuant to title XIX of the social security act, on account of school supportive health services provided to pupils with disabilities in special education programs pursuant to article eighty-nine of this chapter as determined in accordance with the provisions of subdivision one of this section. Any additional apportionment pursuant to this subdivision shall be computed and recomputed by the commissioner in the normal course of auditing school district claims for aid.

§ 34. Paragraph a of subdivision 1 of section 3609-e of the education law, as added by section 46 of part C of chapter 58 of the laws of 1998, is amended and a new paragraph e is added to read as follows:

a. "Amount of tax levy" shall mean the amount of property taxes levied for school purposes in the current year pursuant to subdivision one of section thirteen hundred six of the real property tax law, except that for a city school district of a city with one hundred twenty-five thousand inhabitants or more "amount of tax levy" shall mean an amount equal to the product of the tax rate computed pursuant to [~~subparagraph seven of paragraph a of subdivision thirty-one-a of section thirty-six hundred two of this article~~] **paragraph e of this subdivision** for aids payable in the current year multiplied by such district's actual valuation as defined in subdivision one of [~~such~~] section thirty-six hundred two of this article.

e. "Tax rate" shall mean the amount computed by dividing a school district's total revenues from real property and non-property tax levies for the base year levied for school purposes exclusive of library purposes plus any payments in lieu of taxes received pursuant to section four hundred eighty-five of the real property tax law and exclusive of any balances in excess of six percent of general fund expense remaining in the general fund of the district at the end of the base year, by such district's actual valuation as defined in subdivision one of section thirty-six hundred two of this article including any actual valuation equivalent of payments in lieu of taxes determined pursuant to section four hundred eighty-five of the real property tax law, provided, however, that in the instance of a fiscally dependent city school district, the tax rate shall be computed by dividing (i) such district's total general fund expenditures, plus inter-fund transfers outgoing from the general fund, and plus general fund reserve expenditures, less any and

all general fund non-tax revenue of such city school district which has been paid and identified by an original payer as being specifically on behalf of such city school district, and less any and all non-tax revenue of the city upon which such city school district is fiscally dependent which has been paid and identified by an original payer as being specifically on behalf of such city school district but which has not been identified as revenue of such city school district, and less any and all other general fund revenues of such city school district which are determined by the commissioner to be non-tax revenue of the city upon which such city school district is fiscally dependent, by (ii) such district's actual valuation as defined in subdivision one of such section thirty-six hundred two. Revenues raised by a school district in support of a central high school district shall be included in the revenue of the district raising such revenue, and no local revenue shall be attributed to such central high school districts. Such tax rate shall be computed to five decimals without rounding and shall be multiplied by one thousand to be expressed in mills.

§ 35. The education law is amended by adding a new section 3609-f to read as follows:

§ 3609-f. Moneys apportioned to school districts for lottery grants pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law, when and how payable commencing July first, two thousand seven. Notwithstanding the provisions of section thirty-six hundred nine-a of this article, apportionments payable pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law shall be paid pursuant to this section. The definitions of "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this article shall apply to this section.

1. Prescribed payments. The moneys apportioned by the commissioner to school districts pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law during the school year shall be paid as follows:

(a) September payment. The product of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by ten percent, and such amount shall be payable on the same date as the payment computed pursuant to subparagraph two of paragraph a of subdivision one of section thirty-six hundred nine-a of this article.

(b) October payment. The product of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by fifteen percent, and such amount shall be payable on the same date as the payment computed pursuant to clause (i) of subparagraph four of paragraph a of subdivision one of section thirty-six hundred nine-a of this article.

(c) November payment. The product of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by fifteen percent, and such amount shall be payable on the same date as the payment computed pursuant to clause (ii) of subparagraph four of paragraph a of subdivision one of section thirty-six hundred nine-a of this article.

(d) December payment. The product of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by

fifteen percent, and such amount shall be payable on the same date as the payment computed pursuant to clause (iii) of subparagraph four of paragraph a of subdivision one of section thirty-six hundred nine-a of this article.

(e) January payment. The product of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by fifteen percent, and such amount shall be payable on the same date as the payment computed pursuant to clause (i) of subparagraph two of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.

(f) February payment. The product of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by fifteen percent, and such amount shall be payable on the same date as the payment computed pursuant to clause (ii) of subparagraph two of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.

(g) March payment. The positive difference, if any, of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law less the sum of the payments made pursuant to paragraphs (a), (b), (c), (d), (e) and (f) of this subdivision, and such amount shall be payable on the same date as the payment computed pursuant to clause (iii) of subparagraph two of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.

2. Any payment to a school district pursuant to this section shall be general receipts of the district and may be used for any lawful purpose of the district.

§ 36. Subdivision 9 of section 3612 of the education law is renumbered subdivision 10 and a new subdivision 9 is added to read as follows:

9. Science and mathematics tuition reimbursement program. Of the amount appropriated for purposes of this section for grants to school districts for the two thousand seven--two thousand eight school year and thereafter, five million dollars ($5,000,000) shall be made available for a science and mathematics tuition reimbursement program developed by the commissioner to attract qualified teachers who have received or will receive a transitional teaching certificate, to teach mathematics or science in a low-performing school.

§ 37. Paragraph b of subdivision 2 of section 3612 of the education law, as added by chapter 62 of the laws of 2000, is amended to read as follows:

b. Such grants shall be awarded to school districts, within the limits of funds appropriated therefor, through a competitive process that takes into consideration the magnitude of any shortage of teachers in the school district, the number of teachers employed in the school district who hold temporary licenses to teach in the public schools of the state, the number of provisionally certified teachers, the fiscal capacity and geographic sparsity of the district, the number of new teachers the school district intends to hire in the coming school year and the number of summer in the city student internships proposed by an eligible school district, if applicable. Grants provided pursuant to this section shall be used only for the purposes enumerated in this section. **Notwithstanding any other provision of law to the contrary, a city school district in a city having a population of one million or more inhabitants receiving a grant pursuant to this section may use no more than eighty percent**

of such grant funds for any recruitment, retention and certification costs associated with transitional certification of teacher candidates for the school years two thousand one--two thousand two through two thousand seven--two thousand eight.

§ 38. Section 3641 of the education law is amended by adding two new subdivisions 2 and 8 to read as follows:

2. Full-day kindergarten transition planning grants. Within the amount appropriated for such purpose, the commissioner is hereby authorized to award grants to school districts that operated half-day kindergarten programs in the two thousand six--two thousand seven school year and will continue to operate such half-day programs in the two thousand seven--two thousand eight school year to plan for conversion to full-day kindergartens only in the school year next following the school year in which the planning grant is received, but no later than the two thousand ten--two thousand eleven school year. The commissioner shall prescribe the procedures and criteria for the award of such grants, which shall be available to school districts to defray their additional costs for planning time, the cost of classroom materials, equipment, furniture and supplies not eligible for aid pursuant to subdivisions six, six-a, six-b, six-c or six-f of section thirty-six hundred two of this article, where such additional costs are incurred in planning for the facilities and staffing that will be needed for such conversion. No school district may receive more than one planning grant pursuant to this subdivision. The commissioner shall be authorized to adopt regulations to implement the provisions of this subdivision.

8. Supplemental educational improvement grants. a. In addition to apportionments otherwise provided by section thirty-six hundred two of this article, for aid payable in the two thousand seven--two thousand eight school year and thereafter, the amounts specified in paragraph b of this subdivision shall be paid for the purpose of providing additional funding for the costs of educational improvement plans required as a result of a court-ordered settlement in a school desegregation case to which the state was a party. Grant funds awarded pursuant to this subdivision shall be used exclusively for services and expenses incurred by the school district to implement such educational improvement plans.

b. To the Yonkers city school district there shall be paid eight million five hundred thousand dollars ($8,500,000) on an annual basis. Such grant shall be payable from funds appropriated for such purpose and shall be apportioned to the Yonkers city school district in accordance with the payment schedules contained in section thirty-six hundred nine-a of this article, notwithstanding any provision of law to the contrary.

§ 39. The education law is amended by adding two new sections 3641-a and 3641-b to read as follows:

§ 3641-a. Excelsior scholars program for grade seven mathematics and science students. The commissioner shall establish an excelsior scholars program for grade seven mathematics and science students pursuant to this section and regulations of the commissioner adopted for such purpose. Within the amounts appropriated for this purpose, the commissioner shall award grants on a competitive basis to public and independent colleges and universities to conduct summer programs that shall provide advanced coursework in mathematics and science to students designated as excelsior scholars and, as funds permit, other high-performing students who have completed seventh grade.

1. Each year, the commissioner shall identify up to three thousand high performing seventh grade students in mathematics and science from

students nominated by each public middle school, junior high school, intermediate school or junior/senior high school, or kindergarten through secondary school. The commissioner by regulation shall prescribe the maximum number of students that may be nominated by each school, which may vary based on the size of the school, which shall include equal numbers of male and female students. After review by the commissioner, qualified students shall be certified to the governor for recognition as an excelsior scholar.

2. The commissioner shall conduct a competitive process under which financial grants are awarded to each college and university approved to provide appropriate advanced coursework to excelsior scholars in the summer months, subject to the availability of funds appropriated for such purpose.

3. The regulations of the commissioner shall provide for coordination of the program with the five centers for excellence in technology and the programs offered by such centers, to the extent practicable.

§ 3641-b. Grants for summer institutes for mathematics and science teachers. The commissioner shall establish a program of competitively awarded grants within the amount appropriated for such purpose, to public and independent colleges and universities offering teacher education programs, in partnership with school districts, to conduct summer institutes for teachers of science and mathematics in grades five through eight in middle schools, junior high schools, intermediate schools or junior/senior high schools with priority given as practicable to teachers in schools identified as schools in need of improvement or in corrective action or restructuring status, schools under registration review or schools requiring academic progress. Such summer institutes shall be designed to advance the content knowledge and pedagogy of participating science and mathematics teachers and shall, to the extent practicable, be aligned and integrated with programs offered to excelsior scholars pursuant to section thirty-six hundred forty-one-a of this article. Teachers shall be selected for participation by their building principal.

§ 40. Subdivision 6 of section 4402 of the education law, as amended by section 31 of part A-1 of chapter 58 of the laws of 2006, is amended to read as follows:

6. Notwithstanding any other law, rule or regulation to the contrary, the board of education of a city school district with a population of one hundred twenty-five thousand or more inhabitants shall be permitted to establish maximum class sizes for special classes for certain students with disabilities in accordance with the provisions of this subdivision. For the purpose of obtaining relief from any adverse fiscal impact from under-utilization of special education resources due to low student attendance in special education classes at the middle and secondary level as determined by the commissioner, such boards of education shall, during the school years nineteen hundred ninety-five--ninety-six through June thirtieth, two thousand [~~seven~~] **eight** of the [~~two thousand six--two thousand seven~~] **two thousand seven--two thousand eight** school year, be authorized to increase class sizes in special classes containing students with disabilities whose age ranges are equivalent to those of students in middle and secondary schools as defined by the commissioner for purposes of this section by up to but not to exceed one and two tenths times the applicable maximum class size specified in regulations of the commissioner rounded up to the nearest whole number, provided that in a city school district having a population of one million or more, classes that have a maximum class size of fifteen may

be increased by no more than one student and provided that the projected average class size shall not exceed the maximum specified in the applicable regulation, provided that such authorization shall terminate on June thirtieth, two thousand. Such authorization shall be granted upon filing of a notice by such a board of education with the commissioner stating the board's intention to increase such class sizes and a certification that the board will conduct a study of attendance problems at the secondary level and will implement a corrective action plan to increase the rate of attendance of students in such classes to at least the rate for students attending regular education classes in secondary schools of the district. Such corrective action plan shall be submitted for approval by the commissioner by a date during the school year in which such board increases class sizes as provided pursuant to this subdivision to be prescribed by the commissioner. Upon at least thirty days notice to the board of education, after conclusion of the school year in which such board increases class sizes as provided pursuant to this subdivision, the commissioner shall be authorized to terminate such authorization upon a finding that the board has failed to develop or implement an approved corrective action plan.

§ 41. Subdivisions 1 and 3 and paragraph a of subdivision 2 of section 4115 of the education law, subdivisions 1 and 3 as amended by chapter 387 of the laws of 1954 and paragraph a of subdivision 2 as amended by chapter 53 of the laws of 1979, are amended to read as follows:

1. If the education of Indian children of a reservation is being provided pursuant to the provisions of subdivision two of section forty-one hundred one of this article, such Indian children in attendance on the date construction is commenced shall be included in the computation of a building quota pursuant to **subdivision six-a of** section [~~eighteen~~] **thirty-six** hundred [~~six~~] **two** of this chapter for the school district providing such education. In the event that a district which has furnished instruction to Indian children shall cease to furnish such instruction, any building quota paid such district pursuant to the provisions of [~~section eighteen hundred six of this chapter~~] **such subdivision six-a** shall be recomputed to remove the Indian children from the computation of such building quota for such district.

a. Except as otherwise provided in this subdivision, if the education of Indian children of a reservation shall be provided pursuant to the provisions of subdivision two of section forty-one hundred one of this article, such Indian children shall be included in the pupils deemed in weighted averaged daily attendance [~~and~~]**, average daily membership,** total aidable pupil units**, total aidable foundation pupil units** and total wealth pupil units for the school district providing such education and such Indian children shall be deemed to be resident pupils of the district for the purpose of the computation of the apportionment of public moneys to the school district providing such education.

3. All children at the Thomas Indian school, and all Indian children residing on any of the reservations of the state who are qualified to enter a secondary school and whose parents are unable to provide such education are eligible to appointment by the commissioner of education as state pupils and as such to receive transportation to and from a high school or vocational school on each day of attendance. Whenever such high school or vocational school shall be in a city or district other than one in which such pupils may have the legal right to attend without charge, and where a charge is imposed on non-resident pupils, the state shall also pay the required non-resident fee for tuition. The required non-resident fee for tuition shall not exceed the total cost to the

school district of the education of such Indian children, less any public moneys received by the school district by reason of the attendance of such Indian children in regular day school, except any public moneys received by the district as a building quota pursuant to the provisions of [~~section eighteen hundred six~~] **subdivision six-a of section thirty-six hundred two** of this chapter. The commissioner of taxation and finance shall pay on the warrant of the comptroller bills approved by the commissioner of education from the appropriation for [~~the common~~] **general support for the public** schools, out of such sum as may be appropriated for such support and education of Indian youth for the amounts necessary for the purposes set forth in this section.

§ 42. Paragraph a of subdivision 1 of section 4313 of the education law, as amended by chapter 53 of the laws of 1990, is amended to read as follows:

a. The school district of which any such child is resident at the time of admission or readmission to the New York State school for the blind pursuant to this article shall be required to reimburse the state in an amount equal to the tuition payments made to the state school by the state on behalf of the school district. The comptroller shall deduct the appropriate tuition amounts from any state funds which become due to a school district for each year in which such child is in attendance at such school, and shall deposit such funds to the special revenue accounts established for such purpose. Any tuition amounts deducted pursuant to this subdivision shall be [~~considered an expenditure~~] **included in the approved operating expense** of the school district pursuant to **paragraph t of** subdivision [~~eleven~~] **one** of section thirty-six hundred two of this chapter.

§ 43. Paragraph a of subdivision 1 of section 4357 of the education law, as amended by chapter 53 of the laws of 1990, is amended to read as follows:

a. The school district of which any such child is resident at the time of admission or readmission to the New York State school for the deaf pursuant to this article shall be required to reimburse the state in an amount equal to the tuition payments made to the state school by the state on behalf of the school district. The comptroller shall deduct the appropriate tuition amounts from any state funds which become due to a school district for each year in which such child is in attendance at such school, and shall deposit such funds to the special revenue accounts established for such purpose. Any tuition amounts deducted pursuant to this subdivision shall be [~~considered an expenditure~~] **included in the approved operating expense** of the school district pursuant to **paragraph t of** subdivision [~~eleven~~] **one** of section thirty-six hundred two of this chapter.

§ 44. Clause (f) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law, as amended by chapter 53 of the laws of 1986, is amended to read as follows:

(f) Report periodically, but at least annually, to the board of education or trustees on the status of programs, services, and facilities made available by the school district in accordance with the provisions of subdivision [~~ten~~] **eight** of section thirty-six hundred two of this chapter. Such reports shall be kept on file for inspection by the commissioner.

§ 45. Subdivision 5 of section 4602 of the education law, as amended by chapter 301 of the laws of 1996, is amended to read as follows:

5. School days spent in legal employment by pupils enrolled in approved career cooperative education programs who are in part-time

school attendance shall be included in the average daily attendance **and average daily membership** for apportionment of state aid under provisions of section thirty-six hundred two of this chapter.

§ 46. Subparagraphs 2 and 4 of paragraph b and paragraph d of subdivision 4 of section 92-c of the state finance law, subparagraph 2 of paragraph b as added by chapter 71 of the laws of 1977, subparagraph 4 of paragraph b as amended by chapter 82 of the laws of 1995, and paragraph d as amended by chapter 503 of the laws of 1976, are amended and paragraph b is amended by adding a new subparagraph 2-a to read as follows:

(2) each approved state supported school for the deaf and the blind shall receive ten dollars per enrolled pupil; [~~and~~]

(2-a) each school district eligible to receive total foundation aid pursuant to section thirty-six hundred two of the education law shall receive a lottery grant in an amount equal to the product of the amount of the appropriation for the current year multiplied by the district's VLT ratio. The "VLT ratio" shall be equal to the quotient of the moneys apportioned for such district pursuant to section thirty-six hundred nine-a of the education law as set forth in the school aid computer listing produced by the commissioner in support of the executive budget request for the current school year, divided by the sum of such moneys apportioned for all school districts as set forth in such school aid computer listing in support of the executive budget request for the current school year.

Moneys to be appropriated from the fund in any state fiscal year, commencing on and after April first, two thousand seven, for the purposes of providing aid pursuant to this subparagraph shall be apportioned and paid by the education department pursuant to section thirty-six hundred nine-f of the education law;

(4) each eligible school district shall be entitled to an additional lottery grant equal to the result of multiplying the district's total aidable pupil units for the base year by:

Base Grant x (1 + aid ratio)

Where, the base grant shall equal the sum of the net total available moneys after making payments pursuant to subparagraphs (1), (2)**, (2-a)** and (3) above, plus an amount from the general support for public schools-- general fund local assistance account equal to the June lottery payment, divided by the total aidable pupil units of the state and where the Aid Ratio is equal to one minus the pupil wealth ratio of the district as such term is defined in section thirty-six hundred two of the education law. In no case shall a school district aid ratio exceed one (1) or be less than minus one (-1).

d. Any moneys paid pursuant to this subdivision shall be subject to the limitations of paragraph a of subdivision [~~ten~~] **eight** of section thirty-six hundred two of the education law and shall be used only for operating expenses authorized by law and in accordance with regulations to be promulgated by the commissioner of education with the approval of the director of the budget.

§ 47. Subdivision b of section 2 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, as amended by section 34 of part A-1 of chapter 58 of the laws of 2006, is amended to read as follows:

b. Reimbursement for programs approved in accordance with subdivision a of this section [~~**for the 1992-93 school year shall not exceed 61.4**~~

~~percent of the lesser of such approvable costs per contact hour or five dollars and sixty cents per contact hour, reimbursement for the 1993-94 school year shall not exceed 65.1 percent of the lesser of such approvable costs per contact hour or five dollars and fifty cents per contact hour, reimbursement for the 1994-95 school year shall not exceed 58 percent of the lesser of such approvable costs per contact hour or five dollars and seventy-five cents per contact hour, reimbursement for the 1995-96 school year shall not exceed 61.2 percent of the lesser of such approvable costs per contact hour or five dollars and eighty cents per contact hour, reimbursement for the 1996-97 school year shall not exceed 61.7 percent of the lesser of such approvable costs per contact hour or five dollars and ninety cents per contact hour, reimbursement for the 1997-98 school year shall not exceed 63.2 percent of the lesser of such approvable costs per contact hour or six dollars and ten cents per contact hour, reimbursement for the 1998-99 school year shall not exceed 64.4 percent of the lesser of such approvable costs per contact hour or six dollars and five cents per contact hour, reimbursement for the 1999-2000 school year shall not exceed 64.4 percent of the lesser of such approvable costs per contact hour or six dollars and twenty-five cents per contact hour, reimbursement for the 2000-2001 school year shall not exceed 65.1 percent of the lesser of such approvable costs per contact hour or six dollars and sixty cents per contact hour, reimbursement for the 2001-02 school year shall not exceed 64.5 percent of the lesser of such approvable costs per contact hour or six dollars and ninety cents per contact hour, reimbursement for the 2002-03 school year shall not exceed 64.4 percent of the lesser of such approvable costs per contact hour or seven dollars and forty cents per contact hour, reimbursement for the 2003-04 school year shall not exceed 64.0 percent of the lesser of such approvable costs per contact hour or seven dollars and sixty-five cents per contact hour and reimbursement for the 2004-05 school year shall not exceed 63.2 percent of the lesser of such approvable costs per contact hour or eight dollars and five cents per contact hour and reimbursement~~] for the 2005-06 school year shall not exceed 64.4 percent of the lesser of such approvable costs per contact hour or eight dollars and fifty cents per contact hour [~~and~~], reimbursement for the 2006-07 school year shall not exceed 64.7 percent of the lesser of such approvable costs per contact hour or nine dollars and twenty-five cents per contact hour where a contact hour represents sixty minutes of instruction services provided to an eligible adult **and reimbursement for the 2007-08 school year shall not exceed 63.3 percent of the lesser of such approvable costs per contact hour or nine dollars and ninety-five cents per contact hour where a contact hour represents sixty minutes of instruction services provided to an eligible adult**. Notwithstanding any other provision of law to the contrary, [~~for the 1992-1993 school year the apportionment calculated for the city school district of the city of New York pursuant to subdivision 24 of section 3602 of the education law shall be computed as if such contact hours provided by the consortium for worker education, not to exceed six hundred thousand hours (600,000), were eligible for aid in accordance with the provisions of such subdivision 24 of section 3602 of the education law, whereas, for the 1993-94 school year such contact hours shall not exceed five hundred seventy-six thousand one hundred eighty-seven hours (576,187); whereas, for the 1994-95 school year such contact hours shall not exceed six hundred nineteen thousand five hundred thirty-one hours (619,531); whereas, for the 1995-96 school year such contact hours shall not exceed five hundred eighty-one thousand one hundred thirty-eight hours~~

~~(581,138); whereas, for the 1996-97 school year such contact hours shall not exceed one million ninety-eight thousand nine hundred one hours (1,098,901); whereas, for the 1997-98 school year such contact hours shall not exceed one million five hundred fifty-eight thousand four hundred forty-one (1,558,441) hours; whereas, for the 1998-99 school year such contact hours shall not exceed one million nine hundred twenty-eight thousand twenty (1,928,020) hours; whereas, for the 1999-2000 school year such contact hours shall not exceed one million nine hundred ninety thousand forty-nine (1,990,049) hours; whereas, for the 2000-2001 school year such contact hours shall not exceed one million nine hundred eighty-one thousand three hundred fifty-one (1,981,351) hours; whereas, for the 2001-02 school year such contact hours shall not exceed two million two hundred forty-seven thousand one hundred ninety-one (2,247,191) hours; whereas, for the 2002-03 school year such contact hours shall not exceed two million one hundred thousand eight hundred forty (2,100,840) hours; whereas for the 2003-04 school year such contact hours shall not exceed one million eight hundred forty thousand four hundred ninety (1,840,490) hours; whereas for the 2004-05 school year such contact hours shall not exceed two million two hundred sixty-three thousand seven hundred seventy-nine (2,263,779) hours; whereas~~] for the 2005-06 school year such contact hours shall not exceed two million one hundred two thousand three hundred seventy-six (2,102,376) hours; whereas for the 2006-07 school year such contact hours shall not exceed one million nine hundred twenty-three thousand seventy-six (1,923,076) hours**; whereas for the 2007-08 school year such contact hours shall not exceed one million eight hundred twenty-eight thousand two hundred ninety-eight (1,828,298) hours**.

§ 48. Section 4 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, is amended by adding a new subdivision m to read as follows:

m. The provisions of this subdivision shall not apply after the completion of payments for the 2007-2008 school year. Notwithstanding any inconsistent provisions of law, the commissioner of education shall withhold a portion of employment preparation education aid due to the city school district of the city of New York to support a portion of the costs of the work force education program. Such moneys shall be credited to the elementary and secondary education fund-local assistance account and shall not exceed eleven million five hundred thousand dollars ($11,500,000).

§ 49. Section 6 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, as amended by section 36 of part A-1 of chapter 58 of the laws of 2006, is amended to read as follows:

§ 6. This act shall take effect July 1, 1992, and shall be deemed repealed on June 30, [~~2007~~] **2008**.

§ 50. Subdivision 1 of section 167 of chapter 169 of the laws of 1994, relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, as amended by section 2 of part A-4 of chapter 58 of the laws of 2006, is amended to read as follows:

1. Sections one through seventy of this act shall be deemed to have been in full force and effect as of April 1, 1994 provided, however, that sections one, two, twenty-four, twenty-five and twenty-seven through seventy of this act shall expire and be deemed repealed on March 31, 2000; provided, however, that section twenty of this act shall apply

only to hearings commenced prior to September 1, 1994, and provided further that section twenty-six of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections four through fourteen, sixteen, and eighteen, nineteen and twenty-one through twenty-one-a of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections three, fifteen, seventeen, twenty, twenty-two and twenty-three of this act shall expire and be deemed repealed on March 31, [~~2008~~] **2009**.

§ 51. Subdivision 6-a of section 140 of chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, as amended by section 79 of part H of chapter 83 of the laws of 2002, is amended to read as follows:

(6-a) Section seventy-three of this act shall take effect July 1, 1995 and shall be deemed repealed June 30, [~~2007~~] **2012**;

§ 52. Subdivisions 22 and 24 of section 140 of chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, as amended by section 38 of part A-1 of chapter 58 of the laws of 2006, are amended to read as follows:

(22) sections one hundred twelve, one hundred thirteen, one hundred fourteen, one hundred fifteen and one hundred sixteen of this act shall take effect on July 1, 1995; provided, however, that section one hundred thirteen of this act shall remain in full force and effect until July 1, [~~2007~~] **2008** at which time it shall be deemed repealed;

(24) sections one hundred eighteen through one hundred thirty of this act shall be deemed to have been in full force and effect on and after July 1, 1995; provided further, however, that the amendments made pursuant to section one hundred nineteen of this act shall be deemed to be repealed on and after July 1, [~~2007~~] **2008**;

§ 53. Section 7 of chapter 472 of the laws of 1998, amending the education law, relating to the lease of school buses by school districts, as amended by section 39 of part A-1 of chapter 58 of the laws of 2006, is amended to read as follows:

§ 7. This act shall take effect September 1, 1998, and shall expire and be deemed repealed September 1, [~~2007~~] **2008**.

§ 54. Support of public libraries. The moneys appropriated for the support of public libraries by a chapter of the laws of 2007 enacting the education, labor and family assistance budget shall be apportioned for 2007-2008 in accordance with the provisions of chapter 917 of the laws of 1990, as otherwise amended by chapter 625 of the laws of 1991, chapter 260 of the laws of 1993, chapter 524 of the laws of 1998, chapters 571 and 572 of the laws of 2003, part O of chapter 57 of the laws of 2005, and chapter 58 of the laws of 2006 taking into account the provisions of section 483 of chapter 170 of the laws of 1994, chapter 82 of the laws of 1995 and the provisions of this section, provided that no member library shall receive less local services aid than it received in 2001 and provided further, that no system or program, as defined by the commissioner of education, shall receive less than the highest total system or program aid it received for the year 2001-2002 after taking into account any reduction adjustments necessary due to the appropriation being less than the full statutory amount, and provided further, notwithstanding any provisions of law to the contrary, no library or library system shall receive less aid pursuant to section 271, 272, 273 or 273-a of the education law than it received for the year 2001-2002 by reason of a decrease in the population of the area served, or the ratio

of the area served to the population of the state, as a result of the latest federal census.

§ 55. School district efficiency review program. a. School district efficiency reviews shall be performed under the supervision of the director of the budget to assist school districts in identifying administrative or operational cost savings that may be reinvested in classroom instruction, thereby minimizing growth in local property tax levy spending. Unless requested by the commissioner of education for a specific school district, such review shall be voluntary and shall be initiated upon requests from school district superintendents of schools.

b. In addition to individual school district reviews, comprehensive and comparative reviews of school district efficiency may be conducted under the supervision of the director of the budget based upon data collected from school districts.

c. The results of comprehensive reviews as well as individual school district reviews shall be made public through the use of an internet website as well as through the release of published reports. In addition, individual and comprehensive reviews shall also be used to identify best practices and establish efficiency benchmarks that shall be made available to assist all school districts in improving management and achieving operational savings.

d. All reviews will be supervised by the division of budget and shall be conducted in consultation with the commissioner of education. Any private or non-profit consultant services utilized by the division to conduct such reviews shall be secured though a competitive bidding process.

e. The costs of all reviews shall be supported by state funds unless the commissioner of education determines that a school district for which he or she has requested a review has failed without cause to substantially implement cost saving recommendations identified in its individual review. In instances where such determination is made, the commissioner of education shall either require school district payment to support the cost of the review, as certified by the director of the budget, or withhold an equivalent amount from the next payment of state aid owed to such school district.

§ 56. Special apportionment for salary expenses. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not sooner than the first day of the second full business week of June, 2008 and not later than the last day of the third full business week of June, 2008, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2008, for salary expenses incurred between April 1 and June 30, 2008, and such apportionment shall not exceed the deficit reduction assessment of 1990-91 as determined by the commissioner of education, pursuant to paragraph f of subdivision 1 of section 3602 of the education law, as in effect through June 30, 1993, plus 186 percent of such amount for a city school district in a city with a population in excess of 1,000,000 inhabitants and plus 209 percent of such amount for a city school district in a city with a population of more than 195,000 inhabitants and less than 219,000 inhabitants according to the latest federal census, and shall not exceed such salary expenses. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

b. The claim for an apportionment to be paid to a school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed. Such approved amounts shall be payable on the same day on or before September, 2008, as funds provided pursuant to subparagraph 4 of paragraph b of subdivision 4 of section 92-c of the state finance law, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund and from the general fund to the extent that the amount paid to a school district pursuant to this section exceeds the amount, if any, due such school district pursuant to subparagraph 2 of paragraph a of subdivision 1 of section 3609-a of the education law in the 2008-2009 school year.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the 2008-2009 school year pursuant to subparagraphs 1, 2, 3, 4 and 5 of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph 2 of such paragraph followed by the fixed fall payments payable pursuant to subparagraph 4 of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph 1 of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

§ 57. Special apportionment for public pension accruals. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not later than June 30, 2008, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2008, and such apportionment shall not exceed the additional accruals required to be made by school districts in the 2004-05 and 2005-06 school years associated with changes for such public pension liabilities. The amount of such additional accrual shall be certified to the commissioner of education by the president of the board of education or the trustees or, in the case of a city school district in a city with a population in excess of 125,000 inhabitants, the mayor of such city. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

b. The claim for an apportionment to be paid to a school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed. Such approved amounts shall be payable on the same day in September of the school year following the year in which application was made as funds provided pursuant to subparagraph 4 of paragraph b of subdivision 4 of section 92-c of the state finance law, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund and from the

general fund to the extent that the amount paid to a school district pursuant to this section exceeds the amount, if any, due such school district pursuant to subparagraph 2 of paragraph a of subdivision 1 of section 3609-a of the education law in the school year following the year in which application was made.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the school year following the year in which application was made pursuant to subparagraphs 1, 2, 3, 4 and 5 of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph 2 of such paragraph followed by the fixed fall payments payable pursuant to subparagraph 4 of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph 1 of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

§ 58. Suballocation of certain education department monies. a. Notwithstanding any other law, rule or regulation to the contrary, any moneys appropriated to the state education department may be suballocated to other state departments or agencies, as needed, to accomplish the intent of the specific appropriations contained therein.

b. Notwithstanding any other law, rule or regulation to the contrary, moneys appropriated to the state education department from the general fund/aid to localities, local assistance account-001, shall be for payment of financial assistance, as scheduled, net of disallowances, refunds, reimbursement and credits.

c. Notwithstanding any other law, rule or regulation to the contrary, all moneys appropriated to the state education department for aid to localities shall be available for payment of aid heretofore or hereafter to accrue and may be suballocated to other departments and agencies to accomplish the intent of the specific appropriations contained therein.

d. Notwithstanding any other law, rule or regulation to the contrary, moneys appropriated to the state education department for general support for public schools may be interchanged with any other item of appropriation for general support for public schools within the general fund local assistance account elementary, middle, secondary and continuing education program.

§ 59. Temporary task force on preschool special education. a. There is hereby established a temporary task force on preschool special education consisting of the following seventeen members:

(1) the commissioner of education or his or her designated representative;

(2) the commissioner of health or his or her designated representative;

(3) the chief executive officer of the council on children and families, the commission on quality of care and advocacy for persons with disabilities, and the office of mental retardation and developmental disabilities, or their designated representatives;

(4) the director of the budget or his or her designated representative;

(5) two representatives of school districts appointed by the governor from candidates nominated by statewide organizations representing school districts;

(6) four representatives of counties appointed by the governor including at least two from candidates nominated by a statewide organization representing counties; and

(7) three representatives of approved preschool special education providers, appointed by the governor.

b. The task force shall be chaired by the commissioner of education or his or her designated representative. The members of the task force may elect such other officers as they may deem necessary.

c. To effectuate the purposes of this section, any department, division, board, bureau, commission or agency of the state or of any political subdivision thereof shall, at the request of the chair, provide to the task force such facilities, assistance and data as will enable the task force properly to carry out its powers and duties and those of the chairs.

d. Members of the task force shall receive no compensation for their services as members.

e. The task force shall:

(1) study and evaluate the relationship between preschool special education and other early childhood programs, including but not limited to the early intervention program, the universal prekindergarten program and other publicly-funded prekindergarten programs, and make recommendations on approaches to improve transition from the early intervention system to preschool special education and from preschool special education to school-age special education and on ways to enhance delivery of special education programs and services to children attending universal prekindergarten programs or other publicly-funded prekindergarten programs in the least restrictive environment;

(2) study the current tuition rate-setting methodology for preschool special education programs and services and make recommendations for improvement;

(3) conduct a comparative study of the systems of delivery of preschool special education programs and services in New York and other states, including their methods of financing preschool special education, and make recommendation for inclusion of the best practices from other states in New York and for changes in New York's system of delivery of such programs and services that will promote the cost-effective delivery of appropriate programs and services to preschool students with disabilities in compliance with the federal individuals with disabilities education act;

(4) report on or before November 15, 2007 to the governor, the temporary president of the senate, the speaker of the assembly, the minority leaders of the senate and assembly, the director of the budget and the board of regents on the task force's conclusions and recommendations under paragraphs 1, 2 and 3 of this subdivision.

§ 60. Severability. The provisions of this act shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this act to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this act or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof

directly involved in the controversy in which such judgment shall have been rendered.

§ 61. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2007; provided, however, that:

1. sections one and seven-a of this act shall take effect July 1, 2007;

2. section two of this act shall be deemed to have been in full force and effect on and after the effective date of section 64 of part A-1 of chapter 58 of the laws of 2006;

3. sections fourteen, forty, forty-seven, forty-eight, fifty-three, fifty-five, fifty-six and fifty-seven of this act shall take effect July 1, 2007; provided, however, that the amendments to subdivision 6 of section 4402 of the education law made by section forty of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith; provided, further, that the amendments to subdivision b of section 2 and section 4 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city made by sections forty-seven and forty-eight of this act shall not affect the repeal of such chapter and shall be deemed repealed therewith;

4. sections six through thirteen, fifteen through thirty-six and thirty-eight, thirty-nine and forty-one through forty-six of this act shall take effect July 1, 2007;

5. section thirty-seven of this act shall be deemed to have been in full force and effect on and after July 1, 2006 and shall expire and be deemed repealed June 30, 2008.

6. section forty-nine of this act shall be deemed to have been in full force and effect on and after the effective date of section 85 of part H of chapter 83 of the laws of 2002;

7. section fifty of this act shall be deemed to have been in full force and effect on and after the effective date of section 101 of chapter 436 of the laws of 1997;

8. sections fifty-one and fifty-two of this act shall be deemed to have been in full force and effect as of the effective date of section 140 of chapter 82 of the laws of 1995; and

9. section fifty-eight of this act shall be deemed to have been in full force and effect on and after April 1, 2004 and shall expire and be deemed repealed March 31, 2007.

PART C

Section 1. Section 2552 of the education law, as amended by chapter 138 of the laws of 1974, is amended to read as follows:

§ 2552. Board of education. **1.** The board of education of each such city school district is hereby continued. The educational affairs in each such city school district shall be under the general management and control of a board of education to consist of not less than three and not more than nine members, to be chosen as hereinafter provided, and to be known as members of the board of education, except that the board of education of the city school district of the city of New York shall be constituted as provided in article fifty-two-A of this chapter. [~~**The**~~] **In the cities of Buffalo, Rochester and Syracuse there shall be two members of the board of education appointed by the mayor to serve at the pleasure of the mayor and the** number of **elected** members on the board of

education of each such city school district shall continue to be as follows:

a. City school district of the city of Buffalo: nine members.

b. City school district of the city of Rochester: seven members.

c. City school district of the city of Syracuse: seven members.

[~~d. City school district of the city of Yonkers: nine members.~~]

2. The board of education of the city school district of the city of Yonkers shall consist of nine members who shall be appointed as provided in subdivision three of section twenty-five hundred fifty-three of this article.

§ 2. Section 2553 of the education law, as amended by chapter 762 of the laws of 1950, subdivision 1 as separately amended by chapters 211 and 441 of the laws of 1980, subdivisions 2, 3, 4, 5 and 10 as added by chapter 242 of the laws of 1974, subdivision 6 and paragraphs (c), (d), (e) and (g) of subdivision 9 as amended and paragraphs (f) and (h) of subdivision 9 as relettered by chapter 211 of the laws of 1980, subdivisions 7 and 8 as renumbered by chapter 330 of the laws of 1969, subdivision 9 as added by chapter 141 of the laws of 1971, paragraph (b) of subdivision 9 as amended by chapter 1126 of the laws of 1971 and such subdivision 9 as renumbered by chapter 242 of the laws of 1974, paragraph b of subdivision 10 as amended by chapter 757 of the laws of 1982 and paragraph p of subdivision 10 as amended by chapter 95 of the laws of 1979, is amended to read as follows:

§ 2553. Board of education; eligibility; how chosen; term of office; vacancies. 1. No person shall be eligible to the office of member of a board of education who is not a citizen of the United States, who is not qualified to register for or vote at an election in accordance with the provisions of section 5-106 of the election law, and who, in the case of the city school district of the city of Yonkers, has not been a resident of the city school district for which he **or she** is chosen for a period of at least three years immediately preceding the date of his **or her** election or appointment and who, in the case of the city school district of the city of Buffalo, in the case of a member to be elected at large is not a qualified voter of such city school district and who has not been a resident of such district for a period of at least three years immediately preceding the date of his **or her** election **or appointment** and in the case of a member elected from a city school subdistrict **that** is not a qualified voter of such city school subdistrict and has not been a resident of the city school district for three years and a resident of the city school subdistrict which he **or she** represents or seeks to represent for a period of one year immediately preceding the date of his **or her** election, **or appointment** and who, in the case of the city school district of the city of Rochester, is not a qualified voter under section 5-102 of the election law of such city school district; and who in the case of the city school district of the city of Syracuse has not been a qualified voter under section 5-102 of the election law of such city school district for at least ninety days immediately preceding the date of his **or her** election or appointment.

2. In the city school districts of the cities of Rochester and Syracuse the **elected** members of such board of education shall be chosen by the voters at large at either a general or municipal election, or at both. In the city school district of the city of Buffalo the **elected** members of such board of education shall be chosen pursuant to the provisions of subdivision ten of this section.

3. In the city school district of the city of Yonkers members of the board of education shall be appointed from the city at large by the

mayor and shall be for terms of five years each, to begin on the first Tuesday in May.

4. In the city school districts of the following cities, the terms of such members shall be as follows:

a. Rochester: Four Years;

b. Syracuse: Four Years;

c. Yonkers: Five Years.

5. The terms of one-fifth of all the members of a board of education, or of a fraction as close to one-fifth thereof as possible, shall expire annually on the first Tuesday in May, except in the city school districts of the cities of Buffalo, Rochester and Syracuse.

6. If a vacancy occurs other than by expiration of term in the office of [~~a~~] **an elected** member of a board of education in a district in which such members are elected at a general or municipal election, such vacancy shall be filled by appointment by the mayor until the next general or municipal election is held, and such vacancy shall then be filled at such election for the unexpired portion of such term, except that in the city school district of the city of Rochester any such vacancy shall be filled pursuant to the provisions of subdivision nine of this section and except further that any such vacancy on the board of education of the city school district of the city of Buffalo shall be filled pursuant to the provisions of subdivision ten of this section.

7. If such vacancy occurs in such office in a district in which the members of the board of education are appointed by the mayor, such vacancy shall be filled by appointment by the mayor of such city for the unexpired portion of such term[~~**, but in Buffalo such appointment shall be subject to confirmation by the council**~~].

8. A member of a board of education who publicly declares that he **or she** will not accept or serve in the office of member of such board of education, or refuses or neglects to attend three successive meetings of such board, of which he **or she** is duly notified, without rendering a good and valid excuse therefor to the other members of such board of education, vacates his **or her** office by refusal to serve.

9. (a) The **elected** members of the board of education of the city school district of the city of Rochester shall be elected by the qualified voters of such city as provided herein.

(b) The **elected** members of the board of education shall be elected at large throughout the city by the qualified voters at a general election.

(c) Such elections for such officers shall be governed by the provisions of the election law in the same manner as candidates for office generally to be elected by the voters of the city of Rochester; provided, however, that each such candidate shall be required to file petitions containing at least one thousand signatures.

(d) No person shall be eligible for the office of members of such board of education who is not a qualified voter under section 5-102 of the election law of such city school district. No person shall hold at the same time the office of member of the board of education and any other elective office nor shall he **or she** be a candidate for any other elective office at the same time he **or she** is a candidate for the office of member of such board of education.

(e) The term of office of each **elected** member of such board shall be four years, commencing on the first day of January following his **or her** election. The candidates receiving a plurality of the votes cast respectively for the several offices shall be declared elected. Where more than one office is to be filled by such election and there is a variance in the length of the terms, the candidate receiving the largest number

of votes shall be entitled to the longest term and the candidates receiving the next highest number of votes shall be entitled, in decreasing order of the respective number of votes to the several offices, in decreasing order of the length of such terms or unexpired portions of terms. Whenever a vacancy shall occur or exist in the office of **an elected** member of the board of education except by reason of expiration of term, such vacancy shall be filled by the president of the board of education by appointment of a nominee of the members of the board of education of the same political affiliation as the person who vacated the office and such nominee shall be elected by the majority vote of the board of education; if the board shall not have filled the vacancy within thirty days from the date the vacancy occurred, then the president of the board shall fill the vacancy from the same political party as that of the person who vacated the office. However, if the vacancy shall occur in the office of **an elected** member of the board of education filled by an incumbent elected on a non-partisan or an independent basis, such vacancy shall be filled, after nomination by the president of the board of education, by majority vote of the remaining members of the board of education. A person **so** appointed to fill a vacancy **in an elective position** shall hold office to and including the thirty-first day of December next succeeding the first general election following such vacancy, at which **time** a successor must be elected for the remainder of the unexpired term, if any.

(f) The members [~~so elected to~~] **of** the board of education shall convene on the first business day in January of each year at the time of the commencement of their term of office and select from their members a president who shall serve for a term of one year or such other term, not exceeding the term of his **or her** office, as may be fixed by the rules and regulations of the board.

(g) The election of members of the board of education of the school district of Rochester shall take place at a general election to be held in such city when an incumbent's term expires, and the first election hereinunder shall take place in November of nineteen hundred eighty-one. Such election shall be conducted by the board of elections of the county of Monroe in the same manner as general elections are conducted by it. The results of such elections, after canvassing, shall be certified and reported by the board of elections to the board of education of such city. The clerk or other appropriate officer of the board of education shall within twenty-four hours after the receipt of such certification by the board of elections serve a written notice either personally or by mail upon each person declared to be elected as a member of the board of education informing [~~him~~] **the individual** of his **or her** election and the length of his **or her** term.

(h) Notwithstanding the provisions of any other law, the present members of said board of education shall serve the full terms for which they were elected. Vacancies which may occur in the board shall be filled as provided herein, except, that the vacancies created by the expansion of the board of education from five to seven members, as provided herein, shall be filled at the next general election.

10. a. The members of the board of education of the city school district of the city of Buffalo shall be elected by the qualified voters of such city as provided herein**, except that two members of such board of education shall be appointed at large by the mayor**.

b. The common council of the city of Buffalo shall within three months of the operative date of this paragraph of this section of this act define and publish by local law boundaries of each of six city school

subdistricts which said subdistricts shall be contiguous and each of which shall contain as nearly as possible the same number of inhabitants. The boundaries of the said city school subdistricts may thereafter be redefined by the board of education of the city school district of the city of Buffalo by resolution, after a public hearing thereon, at intervals of not less than five years and such resolution must be passed at least eight months prior to the next election for school board member or members.

c. The members of the board of education of the city school district of the city of Buffalo **in elective positions** shall be elected as follows: one member from each of such six city school subdistricts within such city by the qualified voters therein and three members of such board of education shall be chosen by the qualified voters at large within such city.

d. (1) Such election for such office shall be governed by the provisions of the election law in the same manner as candidates for office generally to be elected by the voters of the city of Buffalo except, as the case may be, as to the date of the election; and, further provided, however, that each such candidate for election as a member of the board of education from a city school subdistrict shall be required to file a petition containing signatures of at least five hundred registered voters of such city school subdistrict in which he is a candidate and each candidate for election to the board of education by the voters at large shall be required to file a petition containing the signatures of at least one thousand registered voters of the city of Buffalo.

(2) No petition shall contain any political party or independent body name or label. Each petition shall contain the name of only one candidate and such petition shall be filed with the clerk of the board of elections of the county of Erie not earlier than the fifth Tuesday and not later than the fourth Tuesday preceding the date on which an election shall be held. A certificate of acceptance or declination of any individual so nominated shall be filed not later than the third day after the fourth Tuesday preceding the election.

(3) For the election held in May, nineteen hundred seventy-four, such petition shall be deemed to be timely filed for such election if filed with the clerk of the board of elections of Erie county on or before April ninth, nineteen hundred seventy-four. A petition sent by mail in an envelope postmarked prior to midnight on April ninth, nineteen hundred seventy-four, shall be deemed to be timely filed when received. Written objection to such petition shall be filed within two days after the date this act shall have become a law and specifications of the grounds of the objections shall be filed with the board within one day after the filing of the objection and institution of court proceedings relating thereto shall be commenced not later than May second, nineteen hundred seventy-four.

e. No person shall hold at the same time the office of member of the board of education of the city of Buffalo and any [~~other~~] elective office nor shall he **or she** be a candidate for any other elective office at the same time he **or she** is a candidate for the office of member of such board of education.

f. Petitions for the nomination of members of such school board shall be on white paper containing the required signatures of qualified voters of the city of Buffalo. The sheets of such petition shall be numbered consecutively, beginning with number one, at the foot of each sheet. Such a petition must set forth in every instance the correct date of signing, the full name of the signer, his **or her** present residence, the

residence from which he **or she** was registered at the time of the last preceding general election, if he **or she** was registered at that time, the city school subdistrict of such residence at such time and the election district thereof at such time. A signer need not [~~himself~~] **personally** fill in the date, residence or residences, city school subdistrict or election district. The election district of the signer to be filed in the petition shall be the election district in effect at the time of the last preceding general election. If the residence from which the signer was registered at the time of the last preceding general election is the same as his **or her** present residence, the word "same" may be written, instead of repeating the place of residence. If the signer was not registered at the time of the last general election, he **or she** shall write "not registered at that time."

g. Each sheet of such a petition shall be signed in ink and shall be substantially in the following form:

I, the undersigned, do hereby state that I am a duly qualified voter of the city of Buffalo, that my present place of residence and my place of residence at the time of the last preceding general election if I was registered at such time are truly stated opposite my signature hereto, I intend to support at the ensuing election and I do hereby nominate the following named person as a candidate for nomination (for the public office of member of the board of education of the city of Buffalo at large.....day of....., [~~19~~] **20**.....,) (for the city school subdistrict.....day of....., [~~19~~] **20**.....)

In witness whereof, I have hereunto set my hand the day and year placed opposite my signature.

Date	Name of Signer	Present Residence
.....	.....	.....
.....	.....	.....
.....	.....	.....

At the Time of the Last Preceding General Election.

Residence	City School Subdistrict	Election District
.....	.....	.....
.....	.....	.....
.....	.....	.....

The petition shall be authenticated by witnesses. Such statement shall be accepted for all purposes as the equivalent of an affidavit, and if false shall subject the witness to the same penalties as if he had been duly sworn. The form of such statement shall be substantially as follows:

STATEMENT OF WITNESS

I,....., (name of witness), state: I am a duly qualified voter of the state of New York, and now reside in the city, town or village of....., in such state, at .....(fill in street and house number and post office) therein. I know each of the voters whose names are subscribed to this petition sheet containing (fill in number).....signatures and each of them subscribed the same in my presence and upon so subscribing

declared to me that the foregoing statement, made and subscribed by him, was true.

.....
Signature of witness

Date.....

h. The board of elections shall refuse to accept such petitions signed by an insufficient number of qualified voters, or petitions which are not timely or petitions bearing a political party or independent body, name or emblem or which contain the name of more than one candidate.

i. Except as it may be modified by the provisions of paragraph [~~(d)~~] **d** and paragraph [~~(n)~~] **n** of this subdivision, the provisions of the election law with respect to acceptances by candidates nominated by independent nominating petitions shall apply to candidates nominated by petitions for members of such board of education.

j. Objections to petitions for the nomination of members of such board of education, procedures and remedies applicable to such objections shall be the same as those applicable to independent nominating petitions under the election law, except as it may be modified by the provisions of paragraph [~~(d)~~] **d** and paragraph [~~(n)~~] **n** of this subdivision.

k. The board of elections shall cause to be printed official ballots containing the names of all candidates as above provided, except that the board may refuse to have the names of ineligible candidates placed on such ballots. The names of the candidates shall be arranged according to lot, and shall not bear the designation of any political party or independent body, name or emblem. Blank spaces shall be provided so that voters may vote for candidates who have not been nominated for the offices to be filled at such elections. The form of such ballots shall conform substantially to the form of ballots used at general elections as prescribed in the election law.

l. Voting for the election of members of such board of education shall be by voting machine and shall be governed by the applicable provisions of the election law with respect to voting machines.

m. If a candidate, after a petition in his **or her** behalf shall have been duly filed with the clerk of the board of elections, and prior to the date of the election, shall decline to accept the nomination, die, remove from the school district, accept or be a candidate for another elective office, or become otherwise disqualified for such city school district office, a further petition may be filed with such clerk, nominating another candidate in his **or her** place and stead. Such further petition shall in all respects comply with the provisions of paragraphs d, f and h of this subdivision, except that it may be filed at any time up to and including the fifteenth day preceding the date of the election pursuant to the provisions of this subdivision and the time within which to accept or object to such further petition shall be computed from the date of filing or said fifteenth day, whichever is earlier.

n. The term of office of each **elected** member of such board from a city school subdistrict shall be three years, and the term of office of each such member of the board elected at large shall be for five years. Of the candidates to be elected for membership on the board of education of the city school district of the city of Buffalo by the voters at large the three candidates receiving the largest number of votes cast in the city, shall be declared elected as at-large members of such board of education. In each city school subdistrict the candidates seeking the

election as the member of such board of education for such city school subdistrict receiving a plurality of votes in such city school subdistrict shall be declared elected to that position.

Whenever a vacancy shall occur or exist in the office of **an elected** member of the board of education except by reason of expiration of term or increase in the number of members of such board **and such position is an elective position**, such vacancy shall be filled by a majority vote of the remaining members of the board of education within thirty days of the date when such vacancy shall have occurred. If the remaining members of the board of education shall fail to fill such vacancy within such thirty day period, then the mayor of the city of Buffalo shall within thirty days thereafter fill such vacancy subject to the confirmation of such appointment by the common council of the city of Buffalo. No one shall be appointed to fill a vacancy of a subdistrict member of the board of education unless he **or she** fulfills all of the qualifications in this subdivision to enable him **or her** to be a candidate for the office of a member of the board of education from the subdistrict involved. **Whenever a vacancy shall occur or exist in the office of a member of the board of education and such position is an appointive position, such vacancy shall be filled by the mayor.**

o. The members so elected **or appointed** to the board of education shall convene on the first business day in July of each year, at the time of the commencement of their term of office and select from their members a president who shall serve for a term of one year or such other term, not exceeding the term of his office, as may be fixed by the rules and regulations of the board.

p. The election of members of the board of education of the school district of the city of Buffalo shall take place on May seventh, nineteen hundred seventy-four and on the first Tuesday in May thereafter in each year in which an incumbent's term expires. Such election shall be conducted by the board of elections of the county of Erie in the same manner as other elections are conducted by it. Polls shall be open for voting for the hours prescribed by section 8-100 of the election law for primary elections. The results of such elections, after canvassing, shall be certified and reported by the board of elections to the board of education of such city. The clerk or other appropriate officer of the board of education shall within twenty-four hours after receipt of such certification by the board of elections serve a written notice either personally or by mail upon each person declared to be elected as a member of the board of education informing him **or her** of his **or her** election and the length of his **or her** term.

§ 3. This act shall take effect immediately.

PART D

Section 1. Paragraphs (a), (b) and (e) of subdivision 2 of section 425 of the real property tax law, as added by section 1 of part B of chapter 389 of the laws of 1997, paragraph (a) as amended by section 1 of part E of chapter 83 of the laws of 2002, subparagraphs (i), (ii) and (iii) of paragraph (b) as amended by section 1 of part A of chapter 56 of the laws of 1998, are amended to read as follows:

(a) Overview. There shall be two variations of the exemption authorized by this section: an exemption for property owned by persons who satisfy the criteria set forth in subdivision three of this section, which shall be known as the "basic" STAR exemption, and an exemption for property owned by senior citizens who satisfy the criteria set forth in

both subdivisions three and four of this section, which shall be known as the "enhanced" STAR exemption. **Recipients of the basic and enhanced STAR exemptions may also qualify for increased exemptions under the "Middle Class STAR" program set forth in subdivisions two-a and two-b of this section.** The exempt amount for each assessing unit shall be determined annually as set forth in this subdivision[~~, by multiplying the "base figure" by the locally-applicable "sales price differential factor," if any, multiplying the product by the appropriate "equalization factor" for the assessing unit, and, if necessary, increasing the result to equal the applicable "floor." The result is then rounded to the nearest multiple of ten dollars~~].

(b) Base figure. Subject to the adjustments prescribed below, the base figure for the exemption shall be as follows:

(i) For the nineteen hundred ninety-eight--ninety-nine school year, the base figure shall be fifty thousand dollars for eligible senior citizens; no exemption shall be allowed for other persons.

(ii) For the nineteen hundred ninety-nine--two thousand school year, the base figure shall be fifty thousand dollars for eligible senior citizens, and ten thousand dollars for other eligible persons.

(iii) For the two thousand--two thousand one school year, the base figure shall be fifty thousand dollars for eligible senior citizens, and twenty thousand dollars for other eligible persons.

(iv) For the two thousand one--two thousand two school year [~~and thereafter~~] **through the two thousand five--two thousand six school year, inclusive**, the base figure shall be fifty thousand dollars for eligible senior citizens, and thirty thousand dollars for other eligible persons.

(v) For the two thousand six--two thousand seven school year, the base figure shall be fifty-six thousand eight hundred dollars for eligible senior citizens, and thirty thousand dollars for other eligible persons.

(vi) Beginning with the two thousand seven--two thousand eight school year, the base figures for the basic and enhanced STAR exemption shall be determined in accordance with the provisions of the "Middle Class STAR" program as set forth in subdivisions two-a and two-b of this section, respectively.

(e) Application of "floor". The result obtained in paragraph (d) of this subdivision may not be less than ninety-five percent of the exempt amount determined for the prior levy, unless the level of assessment in the assessing unit, or in class one in a special assessing unit, has changed by five percent or more, in which case the result obtained in paragraph (d) of this subdivision for the assessing unit, or for class one in a special assessing unit, may not be less than ninety-five percent of the product of the exempt amount determined for the prior levy multiplied by the applicable change in level of assessment factor. **Where the base figure has increased since the prior levy, the exempt amount determined for the prior levy shall be deemed to have increased proportionately for purposes of this calculation.**

§ 2. Section 425 of the real property tax law is amended by adding two new subdivisions 2-a and 2-b to read as follows:

2-a. "Middle Class STAR" program; basic component. (a) Beginning with the two thousand seven--two thousand eight school year, the base figure for the basic STAR exemption shall be thirty thousand dollars. The basic STAR exemption for eligible parcels may be increased based upon the parcel's "affiliated income" as defined in paragraph (b) of this subdivision, in accordance with the following schedules:

(i) The general benefit level schedules for eligible parcels located outside higher-income cities and higher-income counties, as identified pursuant to paragraph (c) of this subdivision, shall be as follows:

(A) For the 2007-08 school year:

Benefit Level	Affiliated Income	Exemption Increase
G1	No more than $60,000	80%
G2	More than $60,000 but no more than $80,000	67.5%
G3	More than $80,000 but no more than $100,000	55%
G4	More than $100,000 but no more than $120,000	42.5%
G5	More than $120,000 but no more than $235,000	30%
G6 or U	More than $235,000, or Undetermined	No increase

(B) For the 2008-09 school year, the income brackets associated with each benefit level shall be determined pursuant to subdivision eleven of section one hundred seventy one-p of the tax law, and the percentage exemption increases to be applied to the base figure of thirty thousand dollars shall be as follows:

Benefit Level	Exemption Increase
G1	90%
G2	75%
G3	60%
G4	45%
G5	30%
G6 or U	No increase

(C) For the 2009-10 school year and thereafter, the income brackets associated with each benefit level shall be determined pursuant to subdivision eleven of section one hundred seventy-one-p of the tax law, and the percentage exemption increases to be applied to the base figure of thirty thousand dollars shall be as follows:

Benefit Level	Exemption Increase
G1	100%
G2	82.5%
G3	65%
G4	47.5%
G5	30%
G6 or U	No increase

(ii) The benefit level schedules for eligible parcels located within higher-income cities or higher-income counties, as identified pursuant to paragraph (c) of this subdivision, shall be as follows:

(A) For the 2007-08 school year:

Benefit Level	Affiliated Income	Exemption
H1	No more than $80,000	80%
H2	More than $80,000 but no more than $120,000	63%
H3	More than $120,000 but no more than	

	$160,000	46%
H4	More than $160,000 but no more than $235,000	30%
H5 or U	More than $235,000 or undetermined	No increase

(B) For the 2008-09 school year, the income brackets associated with each benefit level shall be determined pursuant to subdivision twelve of section one hundred seventy-one-p of the tax law, and the percentage exemption increases to be applied to the base figure of thirty thousand dollars shall be as follows:

Benefit Level	Exemption Increase
H1	90%
H2	70%
H3	50%
H4	30%
H5 or U	No increase

(C) For the 2009-10 school year and thereafter, the income brackets associated with each benefit level shall be determined pursuant to subdivision twelve of section one hundred seventy-one-p of the tax law, and the percentage exemption increases to be applied to the base figure of thirty thousand dollars shall be as follows:

Benefit Level	Exemption Increase
H1	100%
H2	76.5%
H3	53%
H4	30%
H5 or U	No increase

(b) For purposes of this subdivision, the term "income" shall have the same meaning as set forth in subparagraph (ii) of paragraph (b) of subdivision four of this section. The term "affiliated income" shall mean the combined income of all of the owners of the parcel who resided primarily thereon on the taxable status date for the assessment roll used to generate the applicable school tax bills, and of any owners' spouses residing primarily thereon on such taxable status date and shall be determined as follows:

(i) For the two thousand seven--two thousand eight school year, affiliated income shall be determined based upon the parties' incomes for the income tax year ending in two thousand five. In each subsequent year, the applicable income tax year shall be advanced by one year.

(ii) The department of taxation and finance shall determine the affiliated income for each parcel pursuant to section one hundred seventy-one-p of the tax law and shall assign a benefit level to each parcel based upon such determination. Each such determination shall be binding upon all parties, including assessors and boards of assessment review, and may only be revised or reviewed in the manner provided in section one hundred seventy-one-p of the tax law, except as otherwise provided by this paragraph.

(iii) The benefit level determinations of the department of taxation and finance shall be reported as provided by section one hundred seventy-one-p of the tax law to the state board, or in the case of a city with a population of one million or more, to the commissioner of finance of such city. The state board shall, within ten business days of receipt of any such report, make available to each assessor those determinations

that pertain specifically to his or her assessing unit, together with such additional information as such board may deem necessary.

(iv) Upon receipt of the benefit level determinations, the assessor shall be authorized and directed to increase the basic STAR exemptions of qualifying parcels on the assessment roll accordingly, except as otherwise provided by this paragraph. If the assessor receives such determinations after the filing of the tentative or final assessment roll, the person having custody or control of such roll is hereby authorized and directed to make the necessary changes thereto.

(v) If a benefit level determination is not received in time to be incorporated into the school tax bill for the applicable school year, the failure to so incorporate it shall be deemed a "clerical error" for purposes of subdivision two of section five hundred fifty of this chapter and shall be subject to correction in the manner provided in section five hundred fifty-four, five hundred fifty-six or five hundred fifty-six-b of this chapter, or such comparable law as may be applicable within a city with a population of one million or more, provided, that in the case of a school district which allows taxes to be paid in installments, the governing body may at its option direct that the pending installment payments due upon the parcel be reduced in lieu of applying the aforesaid correction provisions.

(vi) Where the department of taxation and finance cannot determine the affiliated income for a parcel or where a parcel does not appear in the report, the parcel shall not be entitled to the benefits authorized by this subdivision unless the department of taxation and finance issues an amendment to the report pursuant to section one hundred seventy-one-p of the tax law, in which case the parcel shall be entitled to such benefits to the extent shown thereon.

(vii) Where the assessor finds that a parcel had one or more owners on the applicable taxable status date who were not identified as owners of that parcel on the benefit level determination of the department of taxation and finance, the parcel shall not be entitled to the benefits authorized by this subdivision unless the department of taxation and finance issues an amendment to the report pursuant to section one hundred seventy-one-p of the tax law that includes all of the owners' names, in which case the parcel shall be entitled to such benefits to the extent shown thereon.

(viii) Where the assessor finds that the ownership of a parcel that had been eligible for an increased exemption pursuant to this subdivision has changed, the assessor shall disregard the portion of the report pertaining to such parcel and shall notify the state board of the change no later than May first of the following year. The state board shall forward such report to the department of taxation and finance in a timely manner and in a mutually-agreeable format.

(ix) Where the assessor finds that an owner's name was recorded more accurately on the benefit level determination of the department of taxation and finance than it had been on the assessment roll, the assessor shall be authorized to revise the assessment records and prepare future assessment rolls accordingly.

(x) In no event shall a basic STAR exemption be increased pursuant to this subdivision to the extent that it would exceed the taxable assessed value of the parcel. In the case of a co-operative apartment unit or mobile home which is receiving the basic STAR exemption in the assessing unit pursuant to paragraph (k) or (l) of subdivision two of this section, in no event shall a basic STAR exemption be increased pursuant

to this subdivision to the extent that it would exceed the assessed value attributable to the unit.

(c) For purposes of this subdivision:

(i)"Higher-income city" shall mean a city that includes one or more entire counties within its boundaries, where the average income of the resident taxpayers of one or more such counties who file income tax returns under article twenty-two of the tax law, not including taxpayers who are claimed as dependents on another taxpayer's return, exceeds the statewide average income by five thousand dollars or more in each of the three most recent taxable years for which data is available. Once classified as a higher-income city, such city shall continue to be so classified for five years.

(ii) "Higher-income county" shall mean a county in which the average income of the resident taxpayers of the county who file income tax returns under article twenty-two of the tax law, not including taxpayers who are claimed as dependents on another taxpayer's return, must have exceeded the statewide average income by five thousand dollars or more in each of the three most recent taxable years for which data is available. Once classified as a higher-income county, such county shall continue to be so classified for five years.

(iii) It shall be the responsibility of the department of taxation and finance to identify by May first of two thousand seven and of every fifth year thereafter those cities and counties which qualify as higher-income cities and higher-income counties for purposes of this subdivision, and to notify the state board of its findings.

(d) The provisions of this subdivision shall apply only to eligible parcels receiving the basic STAR exemption and shall not be applied to any parcel receiving the enhanced STAR exemption.

(e)(i) Notwithstanding any provision of law to the contrary, the following information shall be confidential and shall not be subject to disclosure under article six of the public officers law:

(A) the specific benefit level or income bracket associated with any parcel receiving a "Middle Class STAR" exemption pursuant to this section,

(B) the amount of any "Middle Class STAR" exemption granted to a specific parcel pursuant to this section,

(C) the taxable assessed value for school district purposes of any parcel receiving a "Middle Class STAR" exemption or Basic STAR exemption pursuant to this section, and

(D) the fact that a specific parcel is or is not receiving a "Middle Class STAR" exemption pursuant to this section.

(ii) In no case shall such information be printed upon an assessment roll or tax roll or be viewable when the assessment roll or tax roll is inspected or accessed electronically by any member of the public other than the owner or the owner's agent. In the event that a copy of the assessment roll data file or tax roll data file is made available for public inspection, such information shall be redacted.

(iii) Nothing contained in this paragraph shall be construed to prevent the disclosure of such information on a tax bill or receipt to be provided to the owner or the owner's agent, but in the event that a copy of a tax bill or receipt is made available for public inspection, such information shall be redacted.

(iv) Nothing contained in this paragraph shall be construed to prevent the disclosure of such information to the property owner or his or her agent upon request.

(v) Nothing contained in this paragraph shall be construed to prevent a local government official from transmitting to another local government official or the state board a complete copy of the assessment roll data file or tax roll data file, including the information made confidential by this paragraph, in the performance of his or her official duties, provided that the party receiving such information shall be bound by the restrictions set forth above. Such information shall also be provided in accordance with a proper judicial order, or to a federal, state or local law enforcement agency in connection with an official investigation or to the office of the state comptroller in connection with an official audit.

(vi) Nothing contained in this paragraph shall be construed to preclude the public disclosure of the total taxable assessed value or tax liability of the real property within a school district or within a specific portion thereof, on an aggregate basis for any lawful purpose.

2-b. "Middle Class STAR" program; enhanced component. Beginning with the two thousand seven--two thousand eight school year, the base figure for the Enhanced STAR exemption shall be increased as follows:

(a) For the two thousand seven--two thousand eight school year, the base figure for the Enhanced STAR exemption shall equal seventy-three thousand eight hundred dollars.

(b) For the two thousand eight--two thousand nine school year, the base figure for the Enhanced STAR exemption shall equal seventy-nine thousand five hundred dollars.

(c) For the two thousand nine--two thousand ten school year and thereafter, the base figure for the Enhanced STAR exemption shall equal the prior year's base figure multiplied by the percentage increase in the consumer price index for urban wage earners and clerical workers (CPI-W) published by the United States department of labor, bureau of labor statistics, for the third quarter of the calendar year preceding the applicable school year, as compared to the third quarter of the prior calendar year. If a base figure as so determined is not exactly equal to a multiple of one hundred dollars, it shall be rounded to the nearest multiple of one hundred dollars. It shall be the responsibility of the state board to annually determine base figures pursuant to this paragraph.

§ 3. The tax law is amended by adding a new section 171-p to read as follows:

§ 171-p. Verification of "affiliated income" for "Middle Class STAR" Program. 1. Generally. The determination of the "affiliated income" of parcels for purposes of the basic component of the "Middle Class STAR" program authorized by subdivision two-a of section four hundred twenty-five of the real property tax law shall be made as provided by this section.

2. Notification requirement. The department shall mail information concerning the basic component of the "Middle Class STAR" program to owners of real property who were issued STAR local property tax rebate checks for school taxes for the two thousand six--two thousand seven school year. Such notification shall be mailed no later than May first, two thousand seven and shall explain that property owners must file applications with the department in order to obtain the benefits that are available under the basic component of the "Middle Class STAR" program. Such notice shall further explain how to obtain the application if it is not enclosed therewith.

3. Applications. (a) In order to obtain the benefits of the basic component of the "Middle Class STAR" program, the property owner must

submit an application to the department by May fifteenth, two thousand seven, if the application is submitted by mail, or by May twenty-fifth, two thousand seven, if the application is submitted electronically in a manner prescribed by the commissioner. The applicant shall provide the department with such information as may be necessary to determine the parcel's affiliated income. The persons other than the applicant whose incomes are necessary to the determination of the parcel's affiliated income shall be referred to in this section as "affiliated persons."

(b) If the applicant or any affiliated persons were not required to file New York state income tax returns for the two thousand five income tax year because their incomes were below the threshold that necessitated such filing, the application shall so indicate.

(c) If the applicant or any affiliated persons were not required to file New York state income tax returns for the two thousand five income tax year because they did not reside in New York state in such taxable year, the application shall so indicate. Such persons shall provide with the application any information that the department determines is necessary to calculate the parcel's affiliated income under the basic component of the "Middle Class STAR" program.

(d) After two thousand seven, applications shall be required only when a new application for a basic STAR exemption for real property taxation is filed pursuant to section four hundred twenty-five of the real property tax law, or when there is a change of ownership which does not necessitate the filing of a new application for a basic STAR exemption. In either instance, an application shall be submitted to the department on a timely basis requesting that the department determine the parcel's affiliated income.

4. Processing of applications. (a) After receiving a timely application, the department shall attempt to determine the affiliated income of the parcel and the benefit level to which the parcel is entitled, if any, under the basic component of the "Middle Class STAR" program.

(b) In the case of an application which indicates that the applicant and any affiliated persons were not required to file New York state income tax returns for the two thousand five income tax year because their incomes were below the threshold which necessitated the filing of a state income tax return, the department may, subject to audit, assign the parcel benefit level G1, or H1 if it is in a higher-income city or higher-income county.

(c) In the case of an application which indicates that the applicant and any affiliated persons were not required to file New York state income tax returns for the two thousand five income tax year because they did not reside in New York state in such taxable year, the applicant shall provide such information regarding income as is requested by the department. The department shall assign a benefit level to the parcel based upon the information provided by the applicant and any other information to which the department may have access concerning the income of such person or persons.

5. Reports. (a) No later than June first, two thousand seven, the department shall report its benefit level determinations in a mutually-agreeable format to the state board of real property services, or in the case of a city with a population of one million or more, to the commissioner of finance of such city.

(b) The state board of real property services shall make available to each assessor those benefit level determinations that pertain specifically to the assessing unit which he or she serves, as provided by

paragraph (b) of subdivision two-a of section four hundred twenty-five of the real property tax law.

6. Reconsideration of benefit level. A property owner may seek reconsideration of the benefit level determination for his or her parcel on the grounds that the parcel's affiliated income was determined erroneously. A property owner may also seek reconsideration if no benefit level was assigned to the parcel because the parcel's affiliated income was undetermined. An application for reconsideration of benefit level shall be made in a manner prescribed by the department, and shall be accompanied by such documentation as the department may require. Such application shall be filed no later than February first, two thousand eight. If the department finds after reviewing such an application that the benefit level determination for a parcel should be corrected, it shall issue an amendment to such report and provide such amendment to the state board or, in the case of a city with a population of one million or more, to the commissioner of finance of such city, which shall proceed as set forth in subdivision two-a of section four hundred twenty-five of the real property tax law. If the department finds after reviewing such an application that the benefit level determination for the parcel was correctly assigned, it shall so notify the applicant. Such notification shall include an explanation of the department's findings, indicate that the applicant has the right to a proceeding under article seventy-eight of the civil practice law and rules, and indicate the statute of limitations associated with such proceedings. Such finding shall be subject to review pursuant only to a proceeding under article seventy-eight of the civil practice law and rules.

7. Special provisions relating to co-operative apartment units and mobile homes. (a) The department's determination of affiliated income shall be made with respect to the tenant-shareholders or owners of the unit in question rather than of the parcel.

(b) When reporting its determination pursuant to subdivision four or five of this section, the department shall indicate that the determination pertains to a co-operative apartment or mobile home, and shall provide the unit identification number furnished by the applicant, if any.

8. Subsequent years. In each year subsequent to two thousand seven, affiliated incomes shall continue to be determined as provided by this section for purposes of the basic component of the "Middle Class STAR" program, except that:

(a) The notification requirement of subdivision two of this section shall not be applicable;

(b) Applications shall be required only as provided in paragraph (d) of subdivision three of this section; and

(c) In each subsequent year, the applicable income tax year for determinations under this section shall be advanced one year. All other applicable dates and deadlines which reference a date in two thousand seven shall be advanced and shall be deemed to reference dates in that subsequent year, except that applications for reconsideration of benefit level determinations shall be submitted no later than February first of the ensuing year.

9. Confidential information; disclosure prohibition. Any information furnished by the department pursuant to this section shall be deemed confidential and the assessor, and all other municipal officers or municipal employees, are prohibited from disclosing any such information, except as necessary in the performance of their official duties in connection with the school tax relief (STAR) exemption pursuant to

section four hundred twenty-five of the real property tax law. Any unauthorized disclosure of such information shall be deemed a violation of section eight hundred five-a of the general municipal law. The disclosure of information in accordance with the provisions of this section shall not constitute a violation of section six hundred ninety-seven of this chapter.

10. Deadline. If any applicable deadline shall fall on a Saturday, Sunday or legal holiday, such deadline shall be advanced to the next business date.

11. Income brackets; general. The department shall establish the income brackets to be associated with the general benefit levels for the two thousand eight--two thousand nine school year and each school year thereafter by applying the inflation factor set forth in this subdivision to the figures that defined the income brackets that were applicable to the two thousand seven--two thousand eight school year, as set forth in clause (A) of subparagraph (i) of paragraph (a) of subdivision two-a of section four hundred twenty-five of the real property tax law, and rounding each result to the nearest multiple of one thousand dollars. The department shall establish the income brackets to be associated with the benefit levels for each subsequent school year by applying the inflation factor set forth in this subdivision to the figures that define the income brackets that were applicable to the preceding school year, as determined pursuant to this subdivision, and rounding each result to the nearest multiple of one thousand dollars. Such determination shall be made no later than March first, two thousand eight and each year thereafter. For purposes of this subdivision, the "inflation factor" for each income bracket shall be determined by multiplying the bracket by the percentage increase in the average growth in wages for the group of counties that are not classified as higher-income counties pursuant to paragraph (c) of subdivision two-a of section four hundred twenty-five of the real property tax law, based upon tax returns filed by nondependent resident filers in such counties for tax year two thousand six compared to tax year two thousand five. In each subsequent school year, the prior year's income brackets shall be indexed using the above formula with each tax year advanced by one year.

12. Income brackets; higher-income cities and higher-income counties. The department shall establish the income brackets to be associated with the higher-income cities and higher-income counties benefit levels for the two thousand eight--two thousand nine school year and each school year thereafter by applying the inflation factor set forth in this subdivision to the figures that defined the income brackets that were applicable to the two thousand seven--two thousand eight school year, as set forth in clause (A) of subparagraph (ii) of paragraph (a) of subdivision two-a of section four hundred twenty-five of the real property tax law, and rounding each result to the nearest multiple of one thousand dollars. The department shall establish the income brackets to be associated with the benefit levels for each subsequent school year by applying the inflation factor set forth in this subdivision to the figures that define the income brackets that were applicable to the preceding school year, as determined pursuant to this subdivision, and rounding each result to the nearest multiple of one thousand dollars. Such determination shall be made no later than March first, two thousand eight and each year thereafter. For purposes of this subdivision, the "inflation factor" for each income bracket shall be determined by multiplying the bracket by the percentage increase in the average growth in wages for the group of cities and counties that are classified as high-

er-income cities and higher-income counties pursuant to paragraph (c) of subdivision two-a of section four hundred twenty-five of the real property tax law, based upon tax returns filed by nondependent resident filers in such cities and counties for tax year two thousand six compared to tax year two thousand five. In each subsequent school year, the prior year's income brackets shall be indexed using the above formula with each tax year advanced by one year.

13. Notification of benefit level. The department shall, in a manner deemed appropriate by the department: (a) advise all applicants and potential applicants that the benefit level determination is to appear in the form of a code on the school tax bill; (b) publish the codes that will be used for this purpose and what they mean; (c) advise the applicant to review his or her school tax bill and the benefit level determination made by the department; (d) explain that the applicant will have the opportunity to apply for reconsideration of that determination if the applicant believes that the department's determination was erroneous; and (e) describe the reconsideration process as found in subdivision six of this section.

§ 4. Paragraph (f) of subdivision 6 of section 425 of the real property tax law is REPEALED.

§ 4-a. Section 1306-b of the real property tax law is REPEALED.

§ 5. Subsection (n-1) of section 606 of the tax law is REPEALED.

§ 5-a. Section 178 of the tax law is REPEALED.

§ 6. Paragraphs 2 and 3 of subsection (e) of section 1310 of the tax law, paragraph 2 as amended by chapter 105 of the laws of 2006, paragraph 3 as amended by section 3 of part F of chapter 109 of the laws of 2006, are amended to read as follows:

(2) [~~**Attained age of sixty-five. If the taxpayer has attained the age of sixty-five on or before the close of the taxable year, for married individuals filing joint returns and surviving spouses the credit shall be two hundred thirty dollars. In the case of an unmarried individual, a head of a household or a married individual filing a separate return, the credit shall be one hundred fifteen dollars.**~~

~~**(3) Attained age less than sixty-five. If the taxpayer has not attained the age of sixty-five on or before the close of the taxable year, the credit shall be determined under this paragraph.**~~] **The amount of the credit under this paragraph shall be determined based upon the taxpayer's income as defined in subparagraph (ii) of paragraph (b) of subdivision four of section four hundred twenty-five of the real property tax law. For the purposes of this paragraph, any taxpayer under subparagraph (A) of this paragraph with income of more than two hundred thirty-five thousand dollars shall receive a credit of two hundred thirty dollars, and any taxpayer under subparagraph (B) of this paragraph with income of more than two hundred thirty-five thousand dollars shall receive a credit of one hundred fifteen dollars.**

Beginning in the two thousand eight tax year and each tax year thereafter, the "more than two hundred thirty-five thousand dollar" income limitation shall be adjusted by applying the inflation factor set forth herein, and rounding each result to the nearest multiple of one thousand dollars. The department shall establish the income limitation to be associated with each subsequent tax year by applying the inflation factor set forth herein to the figures that define the income limitation that were applicable to the preceding tax year, as determined pursuant to this subdivision, and rounding each result to the nearest multiple of one thousand dollars. Such determination shall be made no later than March first, two thousand eight and each year thereafter.

For purposes of this paragraph, the "inflation factor" shall be determined by multiplying the income limitation by the percentage increase in the average growth in wages for higher-income cities (as defined in section four hundred twenty-five of the real property tax law) based upon tax returns filed by nondependent resident filers in such higher-income cities for tax year two thousand six compared to tax year two thousand five. In each subsequent tax year, the prior year's income limitation shall be indexed using the above formula with each tax year advanced by one year.

(A) Married individuals filing joint returns and surviving spouses. In the case of a husband and wife who make a single return jointly and of a surviving spouse:

For taxable years beginning:	The credit shall be:
[~~in 1998~~	~~$12~~
~~in 1999~~	~~$35~~
~~in 2000~~	~~$85~~]
in 2001-2005	$125
[~~after 2005~~] **in 2006**	$230
in 2007	**$300**
in 2008	**$320**
after 2008	**$340**

(B) All others. In the case of an unmarried individual, a head of a household or a married individual filing a separate return:

For taxable years beginning:	The credit shall be:
[~~in 1998~~	~~$12~~
~~in 1999~~	~~$39~~
~~in 2000~~	~~$45~~]
in 2001-2005	$62.50
[~~after 2005~~] **in 2006**	$115
in 2007	**$150**
in 2008	**$160**
after 2008	**$170**

§ 7. Paragraphs 2 and 3 of subdivision (c) of section 11-1706 of the administrative code of the city of New York, as amended by section 4 of part F of chapter 109 of the laws of 2006, are amended to read as follows:

(2) [~~**Attained age of sixty-five. If the taxpayer has attained the age of sixty-five on or before the close of the taxable year, for married individuals filing joint returns and surviving spouses the credit shall be two hundred thirty dollars. In the case of an unmarried individual, a head of a household or a married individual filing a separate return, the credit shall be one hundred fifteen dollars.**~~

~~**(3) Attained age less than sixty-five. If the taxpayer has not attained the age of sixty-five on or before the close of the taxable year, the credit shall be determined under this paragraph.**~~] **The amount of the credit under this paragraph shall be determined based upon the taxpayer's income as defined in subparagraph (ii) of paragraph (b) of subdivision four of section four hundred twenty-five of the real property tax law. For purposes of this paragraph, any taxpayer under subparagraph (A) of this paragraph with income of more than two hundred thirty-five thousand dollars shall receive a credit of two hundred thirty dollars, and any taxpayer under subparagraph (B) of this paragraph with income of more than two hundred thirty-five thousand dollars shall receive a credit of one hundred fifteen dollars.**

Beginning in the two thousand eight tax year and each tax year thereafter, the "more than two hundred thirty-five thousand dollar" income

limitation shall be adjusted by applying the inflation factor set forth herein, and rounding each result to the nearest multiple of one thousand dollars. The department shall establish the income limitation to be associated with each subsequent tax year by applying the inflation factor set forth herein to the figures that define the income limitation that were applicable to the preceding tax year, as determined pursuant to this subdivision, and rounding each result to the nearest multiple of one thousand dollars. Such determination shall be made no later than March first, two thousand eight and each year thereafter.

For purposes of this paragraph, the "inflation factor" shall be determined by multiplying the income limitation by the percentage increase in the average growth in wages for higher-income cities (as defined in section four hundred twenty-five of the real property tax law) based upon tax returns filed by nondependent resident filers in such higher-income cities for tax year two thousand six compared to tax year two thousand five. In each subsequent tax year, the prior year's income limitation shall be indexed using the above formula with each tax year advanced by one year.

(A) Married individuals filing joint returns and surviving spouses. In the case of a husband and wife who make a single return jointly and of a surviving spouse:

For taxable years beginning:	The credit shall be:
[~~in 1998~~	~~$12~~
~~in 1999~~	~~$35~~
~~in 2000~~	~~$85~~]
in 2001-2005	$125
[~~after 2005~~] **in 2006**	$230
in 2007	**$300**
in 2008	**$320**
after 2008	**$340**

(B) All others. In the case of an unmarried individual, a head of a household or a married individual filing a separate return:

For taxable years beginning:	The credit shall be:
[~~in 1998~~	~~$12~~
~~in 1999~~	~~$30~~
~~in 2000~~	~~$45~~]
in 2001-2005	$62.50
[~~after 2005~~] **in 2006**	$115
in 2007	**$150**
in 2008	**$160**
after 2008	**$170**

§ 8. Subdivision 5 of section 54-f of the state finance law, as amended by chapter 105 of the laws of 2006, is amended to read as follows:

5. Amounts determined to be due the city pursuant to this section shall be paid out pursuant to the following schedule:

(a) for the state fiscal year beginning in nineteen hundred ninety-eight, one hundred percent of any required amount shall be made by March fifteenth in such fiscal year;

(b) for the state fiscal year beginning in nineteen hundred ninety-nine, fifty percent shall be paid out on March fifteenth and fifty percent on December fifteenth of such year; [~~and~~]

(c) for the state fiscal year beginning in two thousand**,** thirty-three and one-third percent shall be paid out on the fifteenth day of September, December and March of such year;

(d) for the state fiscal [~~years~~] **year** beginning in two thousand six [~~and thereafter~~], thirty-seven and one-half percent shall be paid out on the fifteenth day of September and December of such year, and twenty-five percent shall be paid out on the fifteenth of June of the following year[~~.~~]**;**

(e) for the state fiscal year beginning in two thousand seven, thirty-two and one-half percent shall be paid by the fifteenth day of September and sixty-five percent of the total reimbursement due in such fiscal year shall be paid by the fifteenth day of December of such year, and the remainder of the total reimbursement due in such fiscal year shall be paid by the fifteenth day of June of the following year. Notwithstanding the foregoing provisions of this paragraph, the director of the division of the budget shall have the discretion to defer the September fifteenth or December fifteenth payment due in such fiscal year until June fifteenth of the following year;

(f) for the state fiscal year beginning in two thousand eight, thirty-one and seven tenths percent shall be paid by the fifteenth day of September and sixty-three and four-tenths percent of the total reimbursement due in such fiscal year shall be paid by the fifteenth day of December of such year, and the remainder of the total reimbursement due in such fiscal year shall be paid by the fifteenth day of June of the following year. Notwithstanding the foregoing provisions of this paragraph, the director of the division of the budget shall have the discretion to defer the September fifteenth or December fifteenth payment due in such fiscal year until June fifteenth of the following year; and

(g) for the state fiscal years beginning in two thousand nine and thereafter, thirty and eight-tenths percent shall be paid by the fifteenth day of September and sixty-one and six-tenths percent of the total reimbursement due in such fiscal year shall be paid by the fifteenth day of December of such year, and the remainder of the total reimbursement due in such fiscal year shall be paid by the fifteenth day of June of the following year. Notwithstanding the foregoing provisions of this paragraph, the director of the division of the budget shall have the discretion to defer the September fifteenth or December fifteenth payment due in such fiscal year until June fifteenth of the following year.

§ 9. This act shall take effect immediately.

REPEAL NOTE: Paragraph (f) of subdivision 6 of section 425 of the real property tax law, section 1306-b of the real property tax law, section 178 of the tax law and subsection (n-1) of section 606 of the tax law provide real property tax relief through a local real property tax rebate program and a state income tax credit. The "Middle Class STAR" program enacted by this act provides greater real property tax relief through a needs-based real property tax exemption, thereby rendering the rebate and credit programs obsolete.

PART E

Section 1. Paragraph a of subdivision 4 of section 661 of the education law, as amended by chapter 309 of the laws of 1996, is amended to read as follows:

a. Must be matriculated in an approved program as defined by the commissioner pursuant to article thirteen in an institution [~~and~~] situated in the state, [~~and~~] which has been approved and operating in this state for at least one year**, and has been approved for participation in**

federal student financial aid programs authorized by Title IV of the Higher Education Act of 1965, as amended. Nothing in this subdivision shall preclude payment of an award to a recipient who receives instruction outside the state, which instruction is conducted by an institution situated in the state, and is part of the student's program of study at such institution[~~,~~]**;** provided**,** however, that nothing in this subdivision shall preclude the receipt of a loan pursuant to section six hundred eighty of this article; **provided, further, that students not attending institutions eligible for participating in federal Title IV financial aid programs on or before July first, two thousand seven: (i) who received their first award under this article before the two thousand six--two thousand seven academic year shall be eligible for payments until the end of the two thousand nine--two thousand ten academic year; or (ii) who received their first award under this article for the two thousand six--two thousand seven academic year through and including the two thousand nine--two thousand ten academic year shall be eligible for payments until the end of the two thousand fourteen--two thousand fifteen academic year.**

§ 2. Paragraph c of subdivision 4 of section 661 of the education law, as amended by chapter 309 of the laws of 1996, is amended, paragraph d is relettered paragraph f and two new paragraphs d and e are added to read as follows:

c. For students who first receive aid pursuant to this chapter in academic year nineteen hundred ninety-six--nineteen hundred ninety-seven [~~or thereafter~~] **to academic year two thousand six--two thousand seven**, must have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate; or have achieved a passing score, as determined by the United States secretary of education, on a federally approved examination which demonstrates that the student can benefit from the education being offered[~~.~~]**;**

d. For students who first receive aid pursuant to this chapter in academic year two thousand six--two thousand seven, must have a certificate of graduation from a recognized school providing secondary education within the United States, or the recognized equivalent of such certificate, or have been admitted to such institution after receiving a passing score on a federally approved ability to benefit test that has been independently administered and evaluated, as provided by the commissioner;

e. For students who first receive aid pursuant to this chapter in academic year two thousand seven--two thousand eight or thereafter, must have a certificate of graduation from a school providing secondary education from a state within the United States, or the recognized equivalent of such certificate, or meet other academic standards or requirements as determined by the commissioner.

§ 3. Subdivision 6 of section 665 of the education law, as amended by chapter 195 of the laws of 1980 and paragraph a as designated and paragraph b as added by chapter 1047 of the laws of 1981, is amended to read as follows:

6. Loss of good academic standing. a. If the recipient of an award fails to maintain good academic standing as defined by the commissioner pursuant to article thirteen of this chapter, which definition shall include direction to institutions to establish standards of reasonable progress toward completion of the program in which a student is enrolled, the president shall suspend further payments under the award until and unless the student shall establish, to the satisfaction of the commissioner, promise of successful completion of the program for which

the award is made, and the president may revoke the award if the recipient is not reinstated in good academic standing within a reasonable time to be set by the commissioner.

b. [~~Notwithstanding any law, rule or regulation to the contrary, department of education regulation 145-2.2 filed April twenty-eighth, nineteen hundred eighty, shall apply only to students receiving aid under this article for the first time during school year nineteen hundred eighty-one--nineteen hundred eighty-two or thereafter, except that such regulation~~] **Students who receive their first state award during the nineteen hundred eighty-one--nineteen hundred eighty-two academic year through and including the two thousand five--two thousand six academic year, shall maintain good academic standing as defined by the commissioner, except that such standard** shall not apply to students receiving aid under section six hundred sixty-seven-a of this chapter.

c. Students who receive their first state award during the two thousand six--two thousand seven academic year and thereafter shall make satisfactory progress toward the completion of the program's academic requirements as provided in this paragraph. For purposes of this subdivision, "reasonable progress toward completion of the program" shall mean a student must complete, at a minimum, the following requirements at the time of certification; provided that nothing shall prevent a college from developing stricter standards to measure reasonable progress:

(i) For students first receiving aid in two thousand seven--two thousand eight, and thereafter, and enrolled in four-year or five-year undergraduate programs whose terms are organized in semesters:

Before Being Certified for This Payment	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th
A Student Must Have Accrued at Least This Many Credits	0	3	9	21	33	45	60	75	90	105
With At Least This Grade Point Average	0	1.1	1.2	1.3	2.0	2.0	2.0	2.0	2.0	2.0

(ii) For students first receiving aid in two thousand seven--two thousand eight, and thereafter, and enrolled in two-year undergraduate programs whose terms are organized in semesters:

Before Being Certified for This Payment	1	2	3	4	5	6
A Student Must Have Accrued at Least This Many Credits	0	3	9	18	30	45

With at Least This Grade Point Average	0	.5	.75	1.3	2.0	2.0

(iii) For students first receiving aid in two thousand seven--two thousand eight, and thereafter, and enrolled in four-year or five-year undergraduate programs whose terms are organized on a trimester basis:

Before Being Certified for This Payment	1	2	3	4	5	6	7	8
A Student Must Have Accrued at Least This Many Credits	0	2	4	9	17	25	33	40
With At Least This Grade Point Average	0	1.1	1.1	1.2	1.2	1.3	2.0	2.0

and,

Before Being Certified for This Payment	9	10	11	12	13	14	15
A Student Must Have Accrued at Least This Many Credits	50	60	70	80	90	100	110
With At Least This Grade Point Average	2.0	2.0	2.0	2.0	2.0	2.0	2.0

(iv) For students first receiving aid in two thousand seven--two thousand eight, and thereafter, and enrolled in two-year undergraduate programs whose terms are organized on a trimester basis:

Before Being Certified for This Payment	1	2	3	4	5	6	7	8	9
A Student Must Have Accrued at Least This Many Credits	0	2	4	9	15	21	30	37	45
With At Least	0	.5	.5	.75	.75	2.0	2.0	2.0	2.0

This Grade
Point Average

§ 4. This act shall take effect immediately and be deemed to have been in full force and effect on and after April 1, 2007; provided, however, that section one of this act shall take effect July 1, 2007.

PART F

Section 1. Notwithstanding the provisions of paragraph (c) of subdivision 15 of section 501 of the executive law or any other provision of law to the contrary, the commissioner of the office of children and family services may discontinue services and operations at the Gloversville, Brooklyn and Mt. Vernon community residential homes and the Great Valley non-secure residential center effective the first of October, 2007.

§ 2. This act shall take effect immediately.

PART G

Section 1. The state finance law is amended by adding a new section 99-s to read as follows:

§ 99-s. Youth facility per diem account. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance an account in the miscellaneous special revenue fund to be known as the "youth facility per diem account".

2. The youth facility per diem account shall consist of all moneys received by the state pursuant to section five hundred twenty-nine of the executive law.

§ 2. Section 529 of the executive law is amended by adding a new subdivision 9 to read as follows:

9. All reimbursement made by social services districts for care, maintenance and supervision under this section shall be paid directly to the state through the office of children and family services for deposit into a miscellaneous special revenue fund known as the youth facility per diem account.

§ 3. The balance of the office of children and family services sole purpose care and maintenance account, net of disallowances, refunds, reimbursements and credits to local social services districts, shall be deposited into the miscellaneous special revenue fund known as the youth facility per diem account within thirty days after the effective date of this act.

§ 4. This act shall take effect immediately, provided, however, that section two of this act shall be deemed to have been in full force and effect on and after April 1, 2007.

PART H

Section 1. Notwithstanding any other provision of law to the contrary, including the appropriation made for preventive services pursuant to a chapter of the laws of 2007 enacting the education, labor and family assistance budget, any preventive services provided pursuant to section 409-a of the social services law, whether purchased or provided directly by the district, must include performance or outcome based provisions beginning January 1, 2008 and thereafter. In the absence of the required performance or outcome based provisions, the office of children and

family services may, in accordance with regulations, limit the district's state reimbursement for expenditures related to increases in the amount of gross claims that are otherwise reimbursable during state fiscal year 2007-08 and each of the subsequent state fiscal years that exceed the amount of the district's gross claims for expenditures for the period October 1, 2005 through September 30, 2006 that were claimed through March 31, 2007.

§ 2. This act shall take effect immediately; provided, however, that notwithstanding any other provision of law to the contrary, the office of children and family services shall promulgate, on an emergency basis, any rules or regulations necessary to implement the requirements established pursuant to this act.

PART I

Section 1. Section 28 of part C of chapter 83 of the laws of 2002 amending the executive law and other laws relating to funding for children and family services is amended to read as follows:

§ 28. This act shall take effect immediately; provided that sections nine through eighteen and twenty through twenty-seven of this act shall be deemed to have been in full force and effect on and after April 1, 2002; provided, however, that section fifteen of this act shall apply to claims that are otherwise reimbursable by the state on or after April 1, 2002 except as provided in subdivision 9 of section 153-k of the social services law as added by section fifteen of this act; provided further however, that nothing in this act shall authorize the office of children and family services to deny state reimbursement to a social services district for violations of the provisions of section 153-d of the social services law for services provided from January 1, 1994 through March 31, 2002; provided that section nineteen of this act shall take effect September 13, 2002; and, provided further, however, that notwithstanding any law to the contrary, the office of children and family services shall have the authority to promulgate, on an emergency basis, any rules and regulations necessary to implement the requirements established pursuant to this act; **and** provided further, however, that the regulations to be developed pursuant to section one of this act shall not be adopted by emergency rule[~~; and provided further that the provisions of sections nine through twenty-seven of this act shall expire and be deemed repealed on June 30, 2007~~].

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2007.

PART J

Section 1. The executive law is amended by adding a new article 14-A to read as follows:

ARTICLE 14-A

OFFICE FOR THE BLIND

Section 280. Definitions.
281. Office for the blind: executive director and executive board.
282. Office for the blind: assistance of other agencies.
283. Office for the blind: powers.
284. Equipment loan fund for persons with disabilities.
285. Vending programs.

§ 280. Definitions. 1. As used in this article:

a. "Blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select.

b. "Disability" shall mean a disability as defined in section two hundred ninety-two of this chapter.

c. "Business enterprise program" means the vending program for blind vendors established in regulations of the office and in the provisions of this section.

d. "Instrumentality of the state" means any board, corporation, association, commission, organization or other entity, the governing body of which is totally appointed by other state officials or state bodies such as the state senate, assembly, judicial conference, etc.

e. "License" means a written instrument issued by the office to a blind person, authorizing such person to operate a vending facility.

f. "Permit" means the official approval given the office by a department, agency or instrumentality in control of the maintenance, operation and protection of the property, to establish a vending facility.

g. "Set-aside funds" means funds which accrue to the office from an assessment against the net proceeds of each vending facility in the state's vending facility program and any income from vending machines on the property which accrues to the office.

h. "State property" means any building, land or real property interest occupied or held by any state department, agency or instrumentality.

i. "Vending facility" means vending machines, snack bars, cart service and such other appropriate and necessary auxiliary equipment which may be operated by blind licensees for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages and other articles or services dispensed by vending machine or manually and prepared on or off the premises (including wholesale operations) in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by state law.

j. "Vending machine" means a coin, currency, charge-card, fingerprint, voiceprint, number combination or related system with which to operate the machine, exclusive of telephones, which dispenses articles or services.

k. "Vending machine income" means receipts from vending machine operations, after deducting the cost of goods sold (including reasonable service and maintenance costs in accordance with customary business practices of commercial vending concerns), where the machines are operated, serviced or maintained by, or with the approval of, a department, agency or instrumentality of the state, or commissions paid by a commercial vending concern which operates, services and maintains vending machines on state property for, or with the approval of, a department, agency or instrumentality of the state. Vending machine income does not include receipts of a blind licensee who operates vending machines owned by the office.

l. "Office" means the office for the blind.

m. "Executive director" means the executive director for the office for the blind.

n. "Executive board" means the executive board for the office for the blind.

§ 281. Office for the blind: executive director and executive board. 1. There shall be established an office for the blind within the executive department headed by an executive director appointed by the governor. The office shall be advised by an executive board consisting of fifteen members appointed by the governor, two of whom shall be appointed on the nomination of the temporary president of the senate, two of whom shall be appointed on the nomination of the speaker of the assembly, one of whom shall be appointed on the nomination of the minority leader of the senate, and one of whom shall be appointed on the nomination of the minority leader of the assembly. Of the fifteen members of such board, a majority of such membership shall consist of persons who are blind.

2. The members of the executive board shall serve five year terms. Of the nine members initially appointed by the governor without nomination, two shall serve terms of one year, two shall serve terms of two years, two shall serve terms of three years, and three shall serve terms of four years. Of the two members initially appointed on the nomination of the temporary president of the senate, one shall serve a term of two years and one shall serve a term of five years, and of the two members initially appointed on the nomination of the speaker of the assembly, one shall serve a term of two years and one shall serve a term of five years. The member initially appointed on the nomination of the minority leader of the senate shall serve a term of three years, and the member initially appointed on the nomination of the minority leader of the assembly shall serve a term of four years. At the expiration of the term of any member, subsequent appointments shall be for a term of five years.

3. Members of the executive board shall serve without compensation but shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their official duties.

4. The executive board may conduct its meetings and, by and through the executive director, perform its duties.

5. The executive board shall meet on a regular basis to further the purposes of the office, and to discuss and recommend resolution of differences, if any, between state or local agencies regarding services and programs provided to the blind.

6. The executive board shall investigate the condition of the blind in the state, with particular reference to those who are aged, homeless or needy, and the need for additional means of the state in caring for such persons and the advisability of establishing a state home for aged or needy blind people. The executive board shall make a report with recommendations on these matters to the governor and the legislature on or before January first, two thousand nine.

§ 282. Office for the blind: assistance of other agencies. 1. To effectuate the purpose of this article, any state agency may, at the request of the executive director or the executive board, provide to the office such facilities, assistance, information, and data as necessary to enable the office to properly carry out its powers and duties.

2. The office and the executive board shall protect the confidentiality of individual identifying information and shall only release or authorize the release of the same in accordance with law or regulation.

§ 283. Office for the blind: powers. The executive director shall have the following powers:

1. to identify problems and deficiencies in services and programs to the blind, to plan and make recommendations to the governor for the

remedy of such problems and deficiencies, and to make recommendations for the development of programs and services for the blind;

2. to make recommendations to improve the coordination of program and fiscal resources of state and local, public and private not-for-profit services for the blind;

3. to coordinate program and management research of various services and programs for the blind, including but not limited to vocational rehabilitation and other services and programs provided under articles eighty-five and eighty-seven of the education law, sections three hundred ninety-six-f and three hundred ninety-six-g of the general business law and section ten of the general city law, for the purposes of monitoring, evaluating or improving existing services and programs or encouraging the development of new services and programs;

4. to review and recommend resolution of differences, if any, concerning rules and regulations of state and local agencies insofar as such rules and regulations impact on services and programs for the blind provided by such state and local agencies;

5. to promulgate, amend and rescind rules and regulations relating to the administration and performance of the powers and duties of the office pursuant to this article;

6. to review significant state and locally operated and supported services and programs, plans and proposals for new services and programs for the blind, and to recommend improvements so that such services and programs are planned, created and delivered in a coordinated, effective and comprehensive manner;

7. to aid the blind in finding employment and teach them trades and occupations, and to provide such additional assistance in whatever manner may seem advisable to the executive director and the blind person;

8. to establish one or more schools for the training of blind persons, and to equip and maintain such schools, and to pay for tuition, lodging, support and all necessary expenses for blind persons during their training or instruction for suitable occupation, within the amounts appropriated therefor, whenever in the judgment of the office and such person, such training or instruction will contribute to the efficiency or self support of such blind person. When such educational opportunities cannot be had within this state, they may, within the amounts appropriated therefor, at the discretion of the executive director, be arranged for outside the state;

9. to aid blind persons to become self supporting by furnishing materials or machinery to them, whenever deemed appropriate by the office and the blind person; provided, however that this shall not be deemed to authorize the making of gifts by the office;

10. to employ mobility instructors to provide instruction for blind persons as the office and the blind person may deem advisable;

11. to appoint such officers, employees, agents and consultants as he or she may deem necessary, prescribe their duties, fix their compensation and provide for reimbursement of their expenses within the amounts available therefor by appropriation;

12. to make contracts and to execute all instruments necessary or convenient;

13. to accept and expend any gifts, bequests, grants, awards and other funds or appropriations, subject to the approval of the director of the budget; and

14. to perform all other activities necessary and convenient to carry out the functions, powers and duties of the office and to effectuate the purposes of such office.

§ 284. Equipment loan fund for persons with disabilities. 1. The equipment loan fund for persons with disabilities previously established in the joint custody of the executive director and the comptroller shall be continued.

2. Participation in the loan of the monies of the fund shall be available to all persons with disabilities on the basis of need, pursuant to regulations of the executive director.

3. The loan fund shall provide persons with disabilities with the financial opportunity to purchase or replace essential equipment used by them for daily living or vocational functioning following rehabilitation, including, but not limited to, prosthesis, ramps, wheelchairs, wheelchair van lifts, telecommunication devices for the deaf and hearing impaired, devices which allow persons to discern printed materials and adaptive equipment to permit a person with a disability to operate a motor vehicle but not to purchase or replace a motor vehicle itself.

4. Loans shall be made available directly to a person with a disability, or the parent, legal guardian, or individual with whom such person resides.

5. Where any equipment purchase is approved by the office, a loan shall be made in an amount not to exceed four thousand dollars per applicant.

6. The executive director shall establish regulations governing payment of interest, repayment periods, certification and approval of purchase, and such other orders, rules and regulations as may be necessary for interpretation, implementation or administration of this section.

7. The fund shall consist of all monies appropriated for the purpose of such fund, all monies transferred to such fund pursuant to law, all monies required by the provisions of this section or any other law to be paid into or credited to this fund, and all monies, including interest, paid by borrowers to the fund in repayment of loans made from the fund.

8. Monies of the fund, following appropriations made by the legislature and allocation by the director of the budget to the fund, shall be available for the purpose of enabling eligible applicants to borrow money at less than the prevailing rates of interest for comparable loans.

§ 285. Vending programs. 1. a. For the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed by the office shall be authorized to operate vending facilities on any state property, with no rental or other charge therefor.

b. In authorizing the operation of vending facilities on state property, priority shall be given to blind persons licensed by the office. The executive director, after consultation with the commissioner of the office of general services, shall prescribe regulations designed to assure that priority is given to such licensed blind persons, including assignment of vending machine income pursuant to subdivision four of this section to achieve and protect such priority.

c. (i) Wherever feasible, permits shall be issued to the office for one or more vending facilities to be established on all state property to the extent that any such facility or facilities would not adversely affect the interests of the state.

(ii) Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the state shall be fully justified in writing to the executive director.

2. a. The executive director shall promulgate regulations for the licensing of blind vendors, which regulations shall include provisions that the office shall, in issuing each such license for the operation of a vending facility, give preference to blind persons who are in need of employment. Each such license shall be issued for an indefinite period but may be terminated by the office, after a fair hearing held pursuant to subdivision three of this section, if it is determined that the facility is not being operated in accordance with law, rules and regulations. Licenses shall be issued only to applicants who are blind.

b. The executive director is authorized, with the approval of the head of the department, agency or instrumentality in control of the maintenance, operation and protection of state property on which the facility is to be located but subject to any provisions of law conferring jurisdictional control or determination with respect to the operation, maintenance or use of such state property on a state department, agency, or instrumentality and subject to regulations prescribed pursuant to subdivision one of this section not inconsistent with such provisions of law, to select a location for such facility and the type of facility to be provided.

c. (i) No department, agency or instrumentality of the state shall undertake to acquire by ownership; rent, lease or to otherwise occupy, in whole or in part, any building unless the head of such department, agency or instrumentality consults with the office concerning the suitability of such site for the operation of a vending facility by a blind person. Each such department, agency or instrumentality shall provide notice to the office of its plans for occupation, acquisition, renovation or alteration of a building adequate to permit such office to determine whether such building includes a satisfactory site or sites for a vending facility.

(1) If the office finds such site unsatisfactory for a vending facility, it shall so notify such department, agency or instrumentality, which shall have no further obligations under this section.

(2) If the office finds the site satisfactory for a vending facility, then the department, agency or instrumentality shall make a vending facility in such building available for operation by a blind person in a timely manner.

(3) Upon the notification to the office by such department, agency or instrumentality of the site for occupancy by a vendor, the executive director shall designate a blind vendor for such site within ninety days or upon the occupancy of the building by state employees, whichever is shorter.

(ii) The provisions of this section shall not apply (1) where the number of state employees (including employees of a state department, agency or instrumentality) regularly employed at a site is to be less than four hundred or (2) to property of the state university of New York, the department of correctional services or the New York state thruway authority or (3) where prior to the execution of such lease, the lessor or any tenant has had in operation a vending facility (regardless of the operator thereof) in a part of the building not included in such lease and the operation of a vending facility by a blind person would be in proximate and substantial direct competition with such vending facility, except that each such department, agency or instrumentality shall

give due consideration to leasing property in privately owned buildings capable of accommodating a vending facility and shall give due consideration to providing for the lease of a vending facility not operated by a blind person to be made available to a blind person upon the vacating of such facility by the current operator. Current arrangements by a state department, agency or instrumentality, as to property occupied by it, subject to a term of years or other time limitation, shall not be affected by this section during the period of such term or other time limitation.

d. The office shall, within the amounts appropriated therefor:

(i) provide for each licensed blind person such vending facility equipment, and adequate initial stock of suitable articles to be vended therefrom, as may be necessary; provided, however, that such equipment and stock may be owned by the office for use of the blind, or such stock by the blind individual to whom the license is issued. Provided further, that if ownership of such stock is vested in the blind licensee, the office shall retain a first option to repurchase such stock and in the event such individual dies or for any other reason ceases to be a licensee or transfers to another vending facility, ownership of such stock shall become vested in the office for transfer to a successor licensee subject to an obligation on the part of the office to pay to such individual (or to his estate) the fair value of his or her interest therein as later determined in accordance with regulations of the office and after opportunity for a fair hearing;

(ii) when it is deemed to be in the best interests of the business enterprise program, negotiate, arrange for public bidding, and enter into contracts with commercial vending concerns to operate, service and maintain vending machines at vending facilities and to provide food, beverages, confections and other products, articles and services to be sold through such vending machines; to monitor such contracts and to compel performance by blind licensees and commercial vending concerns; and to collect and disburse vending machine income pursuant to subdivision four of this section;

(iii) provide that if any funds are set aside, or caused to be set aside, from the net proceeds of the operation of the vending facilities such funds shall be set aside, or caused to be set aside, only to the extent necessary for and may be used only for the purpose of: maintenance and replacement of equipment; the purchase of new equipment; management services; assuring a fair minimum return to operators of vending facilities; and retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of blind licensees licensed by such office after the office provides to each such licensee full information on all matters relevant to such proposed program, that funds under this paragraph shall be set aside for such purposes. Provided, however, that in no event shall the amount of such funds to be set aside from the net proceeds of any vending facility exceed a reasonable amount which shall be determined by the executive director;

(iv) make such reports in such form and containing such information as the executive director may from time to time require and to comply with such provisions as he or she may from time to time find necessary to assure the correctness and verification of such reports;

(v) provide to any blind licensee dissatisfied with any action arising from the operation or administration of the vending facility program an opportunity for a fair hearing, as provided in subdivision three of this section.

e. In addition to other requirements imposed in this section, the office shall, subject to available appropriations therefor:

(i) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports, on the operation of the state vending facility program;

(ii) conduct the biennial election of a committee of blind vending facility managers who shall represent all blind licensees in the state program; and

(iii) insure that such committee's responsibilities include: participation, with the office, in major administrative decisions and policy and program development with respect to the vending facility program; receiving grievances of blind licensees and serving as advocates for such licensees; participation, with the office, in the development and administration of a transfer and promotion system for blind licensees; participation, with the office, in developing training and retraining programs; and sponsorship, with the assistance of the office, of meetings and instructional conferences for blind licensees.

f. The executive director shall insure, through promulgation of appropriate regulations, and subject to available appropriations therefor, that uniform and effective training programs, including on-the-job training, are provided for blind individuals, through services under the Federal Rehabilitation Act of 1973. The executive director shall further insure to the extent funds are available that the office provides programs for upward mobility (including further education and additional training or retraining for improved work opportunities) for all trainees under this section, and that follow along services are provided to such trainees to seek to assure that their maximum vocational potential is achieved within the business enterprise program.

g. The office is authorized to enter into agreements to implement its business enterprise program on other than state property including both public and privately owned property.

3. a. Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to the office a request for a full evidentiary hearing which shall be conducted by the executive director or the executive director's designee. Such complaint shall be accompanied by any supporting documents and a copy of the decision or a statement of the action challenged. If such blind licensee is dissatisfied with any action taken or decision rendered as a result of such hearing, he or she may file a complaint with the United States department of education for arbitration in accordance with federal statute.

b. Upon receipt of the complaint provided for under the provisions of paragraph a of this subdivision the executive director shall set a time for the full evidentiary hearing. If the hearing is conducted by a designee, the executive director may accept or reject the decision. If the executive director rejects the recommended decision, he or she shall submit, in writing, reasons for the rejection.

4. a. Vending machine income obtained from the operation of vending machines on state property shall accrue to the blind licensee operating a vending facility on such property; or in the event there is no blind licensee operating such facility on such property, to the office. Vending machine income shall be distributed pursuant to regulations promulgated by the executive director and may include the imposition of a ceiling on the annual income from such vending machines for an individual blind licensee. In the event such a ceiling is imposed, no blind

licensee shall receive less vending machine income by reason of such ceiling than he or she received in nineteen hundred ninety-two.

b. The heads of the departments, agencies and instrumentalities of the state shall insure compliance with this subdivision with respect to buildings, installations and facilities under their control.

5. The executive director shall develop a plan to establish first priority for the operation of cafeterias on state property by blind licensees. Such plan shall include an assessment of how such operation can be provided at a reasonable cost with food of a high quality comparable to the food currently provided to employees on state property. Such plan shall be submitted to the governor, temporary president of the senate, speaker of the assembly, senate finance committee and assembly ways and means committee on or before December thirty-first, two thousand nine.

6. On or before January first of each year, the executive director shall issue an annual report to the governor, temporary president of the senate, speaker of the assembly, senate finance committee and assembly ways and means committee regarding the implementation of this program, which shall include, but not be limited to:

a. an evaluation of the current status of the program; and

b. an evaluation of the office's success in establishing new blind vending sites for the year.

§ 2. Notwithstanding any other provision of law, rule or regulation to the contrary, upon the effective date of this act, responsibility for the equipment loan fund for the disabled authorized by title 9-A of article 5 of the social services law is hereby transferred and assigned from the office of children and family services to the office for the blind, and all functions, obligations and assets of such fund are transferred to the office for the blind subject to the provisions of this act.

§ 3. Notwithstanding any other provision of law to the contrary, upon the effective date of this act, all functions, powers, duties, obligations and assets of the commission for the blind and visually handicapped not specifically repealed by this act, are hereby transferred and assigned to the office for the blind subject to the provisions of this act.

§ 4. Notwithstanding any other law, rule or regulation to the contrary, upon the effective date of this act, the executive director of the office for the blind shall be the designee of the state of New York for the purpose of carrying into effect the provisions of the federal laws relating to the functions, powers, duties and obligations hereby transferred and assigned to the office for the blind pursuant to sections two and three of this act, and any federal funds applicable to appropriations to the office of children and family services for such purposes may be made available to the office for the blind subject to the approval of the director of the budget.

§ 5. The commission for the blind and visually handicapped shall provide for the orderly transfer of all matters, books, records, property and other items relating to the functions, powers, duties and obligations hereby transferred and assigned to the office for the blind in sections two, three and four of this act.

§ 6. Upon the transfer of functions to the office for the blind pursuant to this act, provision shall be made for the transfer to the office for the blind of employees of the commission for the blind and visually handicapped and such employees of the office of children and family services who are substantially engaged in carrying out the functions of

the office for the blind as determined by the office of children and family services and the office for the blind. Employees so transferred to the office for the blind shall be transferred pursuant to section 70 of the civil service law.

§ 7. All rules, regulations, acts, determinations, orders and decisions of the commission for the blind and visually handicapped pertaining to the functions transferred pursuant to this act, in force at the time of such transfer, shall continue in force and effect as rules, regulations, acts, determinations, orders and decisions of the office for the blind until modified or abrogated by the office for the blind.

§ 8. Any business or other matter undertaken or commenced by the commission for the blind and visually handicapped pertaining to or connected with the functions, powers, obligations and duties transferred pursuant to this act, and pending on the effective date hereof, may be conducted and completed by the office for the blind in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the commission for the blind and visually handicapped.

§ 9. Whenever the commission for the blind and visually handicapped is referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties transferred pursuant to this act, such reference or designation shall be deemed to refer to the office for the blind.

§ 10. No existing right or remedy of any character not inconsistent with the provisions of this act shall be lost, impaired or affected by reason of this act.

§ 11. No action or proceeding pending on the effective date of this act, brought by or against the commission for the blind and visually handicapped and pertaining to or connected with the functions, powers, obligations and duties transferred pursuant to this act, shall be affected by this act, but the same may be prosecuted or defended in the name of the office for the blind. In all such actions and proceedings, the office for the blind, upon application to the court, shall be substituted as a party.

§ 12. Subject to the approval of the director of the budget, all appropriations or reappropriations for the functions herein transferred heretofore made to the commission for the blind and visually handicapped or to the office of children and family services for such functions, or segregated pursuant to law, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated or whether obligated or unobligated, are hereby transferred to and made available for use and expenditure by the office for the blind for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the office for the blind on the audit or warrant of the state comptroller. Payments for liabilities or expenses, personal service, maintenance and operations heretofore incurred by the commission for the blind and visually handicapped or the office of children and family services in connection with the functions herein transferred and for liabilities incurred and to be incurred in completing their affairs in relation to the functions transferred herein, shall be made on vouchers or certificates approved by the office for the blind on audit and warrant of the state comptroller.

§ 13. Chapter 693 of the laws of 1992, relating to establishing a vending program for the blind and visually handicapped is REPEALED.

§ 14. Chapter 415 of the laws of 1913, relating to establishment of a state commission for the blind and visually handicapped is REPEALED.

§ 15. Section 38 of the social services law is REPEALED.

§ 16. This act shall take effect on the one hundred eightieth day after it shall have become a law.

PART K

Section 1. Notwithstanding any other provision of law to the contrary, where an appropriation is made by a chapter of the laws of 2007 to the office of temporary and disability assistance under the temporary and disability assistance program from the special revenue fund - federal aid to localities, federal health and human services fund - 265 for amounts and purposes other than one billion one hundred eleven million eight hundred eighty two thousand dollars for the "family assistance program, emergency assistance to families program, safety net program, and other eligible public assistance expenses", sixty-nine million seven hundred thousand dollars, for "state operations costs", twelve million five hundred thousand dollars, two million five hundred thousand dollars, and one million one hundred thousand dollars for "transfer to state operations", four million dollars for "expenses associated with the operation of the statewide electronic benefit (EBT) system", and one billion eight million dollars for "allocation to local social services districts for the flexible fund for family services", such appropriation shall only be available pursuant to a plan or plans developed by the commissioners of temporary and disability assistance and children and family services for the programs operated by their respective agencies and approved by the director of the budget. Such plan or plans shall describe how the performance and accountability of such described programs will be improved through activities which may include but are not limited to relevant performance and/or outcome indicators and studies. In addition, performance data, as well as updated allocation, award, and spending information will be made available on the respective agency website. Where applicable, the local social services district commissioner in which such described programs are located shall indicate the need for such program in the district.

§ 2. Notwithstanding any provision of law to the contrary, where the sum of one billion eight million dollars is appropriated by a chapter of the laws of 2007 to the office of temporary and disability assistance under the temporary and disability assistance program from the special revenue fund - federal aid to localities, federal health and human services fund - 265 "for allocation to local social services districts for the flexible fund for family services", such appropriation shall be available for the purposes as follows:

Funds shall, without state or local participation, be allocated to local social services districts in accordance with a methodology that shall be based on allocations and awards for the prior state fiscal year, including any supplemental claims for such costs settled during that period, and other factors, for expenditures eligible under the state plan for the temporary assistance for needy families block grant, including but not limited to, expenditures for child welfare services, employment services and supportive services, provided however, that local spending of these funds, in combination with state spending for the same purposes will not exceed applicable federal limits on the spending of temporary assistance for needy families funds for administrative purposes. Such amounts allocated to local social services districts shall hereinafter be referred to as the flexible fund for family services.

Notwithstanding any inconsistent provision of law to the contrary, such amounts shall constitute the full amount of federal temporary assistance for needy families funds to be paid on account of activities funded in whole or in part hereunder. Such allocation shall be available for reimbursement through March 31, 2010; provided, however, that reimbursement for child welfare services other than foster care services shall be available for eligible expenditures incurred on or after October 1, 2006 and before October 1, 2007 that are otherwise reimbursable by the state on or after April 1, 2007 and that are claimed by March 31, 2008. District allocations from the flexible fund for family services may be spent only pursuant to plans of expenditure, developed by each social services district and the local governing body and approved by the department of family assistance and the director of the budget, which summarize how the local district will comply with federal work participation rates, set forth the gross amount of funds and the amount of temporary assistance for needy families funds that will be expended in connection with activities funded in whole or in part hereunder, and how the district will conduct activities required under applicable federal and state law and regulations, including but not limited to screening, testing, and assessment for alcohol and substance abuse pursuant to section 132 of the social services law.

Of the amounts so appropriated for allocation to local social services districts, notwithstanding any inconsistent provision of law to the contrary, subject to the approval of the director of the budget, a portion of the amount so appropriated may be used for administrative costs and may be chargeable to grants, including personal service costs of the office of court administration or other state agencies. Such reimbursement may be available through transfer or suballocation.

Amounts so appropriated for allocation to local social services districts, may be used, notwithstanding section 153 of the social services law, without state or local financial participation, for services to public assistance recipients who are either eligible for federally funded income support under the temporary assistance for needy families block grant, or whose current case includes a dependent child under the age of 18 or under the age of 19 if the child is attending secondary school and is in receipt of safety net assistance, and those eligible individuals and families whose incomes do not exceed 200 percent of the federal poverty level. Specific services may include, but are not necessarily limited to: specialized self-sufficiency case management and job training services through social services districts to help eligible persons secure and retain employment; transportation services to and from employment or other allowable activities; domestic violence screening and service referral; domestic violence training; screening, assessment, optional testing and treatment for substance abuse including related workforce preparation services; periodic incentives for excellence in academic achievement or community service; services and expenses of transitional opportunities program offices; services to augment employer-based programs that assist youth at-risk of not graduating from high school; performance-based job placement services through contracts with for profit or non-profit agencies; job specific training opportunities and job placement; youth enterprise services for eligible youth who have been released from residential facilities, and eligible administration costs, including contracts through the office of temporary and disability assistance with outside auditors to ensure compliance with federal requirements. At the request of social services districts, a portion of the funds so appropriated may

be retained by the office of temporary and disability assistance for the continuation of statewide contracts or to provide centralized administrative services, including but not limited to issuing requests for proposals, entering into and processing contracts, and providing vendor payments.

Amounts so appropriated for allocation to local social services districts, notwithstanding any inconsistent provision of law, may be used, without state or local financial participation, for costs of operating summer youth programs providing full wage subsidy paid summer employment and associated supportive services to eligible individuals with families under the state plan for the temporary assistance for needy families block grant.

Notwithstanding any inconsistent provision of law, subject to the approval of the commissioner of the office of temporary and disability assistance and the director of the budget, local social services districts may authorize the state to withhold funds so appropriated for allocation to local social services districts for the payment, without local financial participation, of eligible costs of the BRIDGE and EDGE programs including transfer to state operations for personal and nonpersonal services costs.

Notwithstanding any inconsistent provision of law, amounts so appropriated for allocation to local social services districts, without state or local financial participation, may be used for the provision of transportation services to individuals and families who are eligible under the state plan for the temporary assistance for needy families block grant and whose incomes do not exceed 200 percent of the federal poverty level, for the purpose of transportation to and from employment or other allowable activities; provided however, that unless the eligible individual or family is in receipt of public assistance, receipt of such transportation services shall not constitute assistance under federal regulations governing the temporary assistance for needy families block grant. Such amount may be used directly or in consultation with the department of transportation to provide such services. Such funds may be provided to employers for expenses related to the provision of transportation to and from work activities for eligible individuals.

Of the amounts so appropriated for allocation to local social services districts, funds may be used, without state or local participation, for the costs of child welfare services, other than juvenile justice services and foster care services except as specifically provided herein, provided to eligible individuals and families whose incomes do not exceed 200 percent of the federal poverty level.

Of the amounts so appropriated for allocation to local social services districts, notwithstanding any inconsistent provision of law, funds may be used, without state or local financial participation, by social services districts with a population in excess of 2,000,000 persons for such district's first eligible expenditures that occurred on or after October 1, 2006, or, subject to the approval of the director of the budget, during any other period beginning on or after January 1, 1997, for tuition costs for foster care children who are eligible for emergency assistance for families in the manner the state was authorized to fund such costs under part A of title IV of the social security act as such part was in effect on September 30, 1995; provided that the funds appropriated herein may not be used to reimburse localities for costs disallowed under title IV-E of the social security act. Such expenditures shall constitute good cause pursuant to section 408 (a) (10) of the social security act.

Of the amounts so appropriated for allocation to local social services districts, funds may be used, without state or local participation, for care, maintenance, supervision, and tuition for juvenile delinquents and persons in need of supervision who are placed in residential programs operated by authorized agencies and who are eligible for emergency assistance to families in the manner the state was authorized to fund such costs under part A of title IV of the social security act as such part was in effect on September 30, 1995. Such expenditures shall constitute good cause pursuant to section 408 (a) (10) of the social security act. Unless otherwise approved by the commissioner of the office of children and family services with the approval of the director of the budget, these funds may be used only for eligible expenditures made from October 1, 2006 through September 30, 2007. Notwithstanding any inconsistent provision of law, the funds so appropriated may not be used to reimburse localities for costs disallowed under title IV-E of the social security act.

Notwithstanding any inconsistent provision of law, of the amounts so appropriated for allocation to local social services districts, funds may, without state or local financial participation, be used for additional direct costs associated with domestic violence screening and referral to counseling and related services for public assistance recipients who are either currently eligible for federally funded income support under the temporary assistance for needy families block grant, or whose current case includes a dependent child under the age of 18 or under the age of 19 if the child is attending secondary school and is in receipt of safety net assistance, and those individuals and families whose incomes do not exceed 200 percent of the federal poverty level.

Of the amounts so appropriated for allocation to local social services districts, notwithstanding any inconsistent provision of law, funds may be used, without state or local financial participation, for the provision of non-residential domestic violence services. Local social services districts are encouraged to collaborate with non-profit providers in the provision of such services.

Of the amounts so appropriated for allocation to local social services districts, notwithstanding any inconsistent provision of law, such funds may be used, without state or local financial participation, for eligible costs related to screening, assessment, optional testing and treatment for substance abuse problems for public assistance recipients who are either currently eligible for federally funded income support under the temporary assistance for needy families block grant, or whose current case includes a dependent child under the age of 18 or under the age of 19 if the child is attending secondary school and is in receipt of safety net assistance, and those individuals and families whose incomes do not exceed 200 percent of the federal poverty level.

Of the amounts so appropriated for allocation to local social services districts, notwithstanding any inconsistent provision of law, funds may be used, without state or local financial participation, to initiate program modifications and/or to provide services, which may include but not be limited to substance abuse and mental health counseling, diversion of youth at risk of placement in detention programs, reduction of length of placement of youth receiving detention services, and/or the provision of preventive services to persons 16 and 17 years old who are alleged or determined to be in need of supervision consistent with paragraph (3) of section 401 of the personal responsibility and work opportunities reconstruction act of 1996 (Public Law 104-193).

Notwithstanding any other provision of law including the state finance law and any local procurement law, at the request of a social services district and with the approval of the division of the budget, a portion of the funds so appropriated may be retained by the office of temporary and disability assistance for use by such office or for transfer or suballocation to the department of labor, the department of health and/or the office of children and family services to provide centralized administrative services, including but not limited to entering into, processing and/or amending contracts with existing providers for any services eligible for funding under the flexible fund for family services for which the applicable state agency has a contractual relationship or had a contractual relationship during state fiscal year 2004-05 or thereafter, and providing vendor payments.

Of the amounts so appropriated for allocation to local social services districts, notwithstanding any inconsistent provision of law, a social services district may request that the office of temporary and disability assistance retain and transfer a portion of the district's allocation of these funds to the credit of the office of children and family services special revenue funds - federal/aid to localities federal block grant fund - 269 for the title XX social services block grant for use by the district for eligible title XX services and/or to the credit of the office of children and family services federal health and human services fund - 265 local assistance, federal day care account for use by the district for eligible child care expenditures under the state block grant for child care, within the percentages established by the state in accordance with the federal social security act and related federal regulation. Any funds transferred at a district's request to the title XX social services block grant shall be used by the district for eligible title XX social services provided in accordance with the provisions of the federal social security act and the social services law to children or their families whose income is less than 200 percent of the federal poverty level applicable to the family size involved. Any funds transferred at a district's request to the office of children and family services federal health and human services fund - 265 local assistance, federal day care account shall be made available to the district for use for eligible child care expenditures in accordance with the applicable provisions of federal law and regulations relating to federal funds included in the state block grant for child care and in accordance with applicable state law and regulations of the office of children and family services. Any claims made by a social services district for expenditures made for child care during a particular federal fiscal year, other than claims made under title XX of the federal social security act, shall be counted against the social services district's block grant for child care for that federal fiscal year. Each social services district must certify to the department of family assistance by June 30, 2007 the amount of funds it wishes to have transferred under this provision. If there is any transfer authority remaining under federal law and regulation after the office of temporary and disability assistance transfers all of the funds certified by the districts by June 30, 2007 to be so transferred, the department of family assistance may provide additional transfer authority to those districts that transferred the maximum allowable amount. Prior to the transfer of funds pursuant to this provision, the office of temporary and disability assistance shall determine the availability of such funding and, subject to approval of the director of the budget, take necessary steps to notify the depart-

ment of health and human services and the office of children and family services of the transfer of funding for purposes contained in this act.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2007.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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