

VETO MESSAGE - No. 16

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 9707-C, entitled:

"AN ACT to amend the education law, in relation to a contract for excellence; to amend the education law, in relation to education mandates; to amend the state finance law, in relation to the state lottery fund; to amend the education law, in relation to identifying school districts with high rates of identification of students with disabilities; to amend the general municipal law, in relation to authorizing a withdrawal from the employee benefit accrued liability reserve fund and the examination of accounts; to amend 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, in relation to apportionment and reimbursement and in relation to the effectiveness of such provisions; to amend chapter 425 of the laws of 2002, amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, in relation to the effectiveness of such chapter; to amend chapter 101 of the laws of 2003, amending the education law relating to implementation of the No Child Left Behind Act of 2001, in relation to the effectiveness thereof; to amend chapter 618 of the laws of 1998, amending the general municipal law and the education law relating to disposal of surplus computer equipment by political subdivisions, in relation to extending the expiration of such chapter; to amend chapter 219 of the laws of 2003, amending the education law relating to publishers or manufacturers providing printed instructional materials for college students with disabilities, in relation to extending the provisions of such chapter; to amend chapter 552 of the laws of 1995, amending the education law relating to contracts for the transportation of school children, in relation to the effectiveness thereof; to amend chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, in relation to the effectiveness thereof; to amend chapter 534 of the laws of 1993 amending the education law relating to physical therapy assistants, in relation to extending the effective date thereof; to amend chapter 20 of the laws of 1998 amending the education law relating to the provision of physical therapy assistant services in public and private primary and secondary schools, in relation to extending the effectiveness of such chapter; to amend chapter 386 of the laws of 1996, amending the education law relating to providing for a waiver allowing state aid in certain circumstances, in relation to extending its effectiveness; to amend chapter 537 of the laws of 2008, amending the education law, relating to a restricted dental faculty license, in relation to extending the effectiveness thereof; to amend 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, 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 repeal subdivision 17 of section 1950 of the education law, relating to boards of cooperative educational services; and providing for the repeal of certain provisions upon expiration thereof (Part A); Intentionally omitted (Part B); Intentionally omitted (Part C); Intentionally omitted (Part D); Intentionally omitted (Part E); Intentionally omitted (Part F); to amend the education law, in relation to restrictions on eligibility to receive awards and loans; and to repeal certain provisions of such law relating thereto (Part G); Intentionally omitted (Part H); to amend the education law, in relation to tuition assistance program awards (Part I); to amend the education law, in relation to tuition assistance program award determinations (Part J); to amend the education law, in relation to eligibility requirements for student financial aid (Part K); Intentionally omitted (Part L); to amend the education law, in relation to the definition of income for purposes of tuition assistance program awards (Part M); to amend chapter 57 of the laws of 2005 amending the education law relating to the New York state nursing faculty loan forgiveness incentive program and the New York state nursing faculty scholarship program, in relation to the effectiveness thereof (Part N); to amend chapter 31 of the laws of 1985, amending the education law relating to regents scholarships in certain professions, in relation to extending the effectiveness of certain provisions thereof (Part O); to amend the education law, in relation to the scholarship for academic excellence and New York state math and science teaching incentive program (Part P); Intentionally omitted (Part Q); Intentionally omitted (Part R); to amend the education law and the public authorities law, in relation to the New York higher education loan program (Part S); to amend the education law, in relation to the New York State district attorney and indigent legal services attorney loan forgiveness program (Part T); Intentionally omitted (Part U); Intentionally omitted (Part V); Intentionally omitted (Part W); and Intentionally omitted (Part X)"

#### NOT APPROVED

This bill would enact into law various legislative proposals relating to the education, labor and family assistance budgets. These proposals are wide and varied, and many have considerable merit.

The Legislature has, however, inserted a poison pill into this legislation. In Section 21 of Part A of the bill, the Legislature has amended a formula included in the legislation submitted with the Executive Budget. The revised formula would provide for additional school aid of \$600 million, which the State would need to provide in the 2010-11 and 2011-12 State fiscal years.

When the Legislature provided an additional \$419 million school aid appropriation to authorize such spending in the companion appropriations bill, I was compelled to disapprove it, as the Legislature failed to put forward a balanced budgetary plan that would account for such added spending. Now, in essence, the Legislature seeks to achieve through the back door of this bill what it did not gain through its appropriation. Because this provision, in combination with other measures for additional spending, will adversely impact the State's capacity to maintain a properly balanced budget, provide for adequate fiscal reserves and ensure manageable out-year budget gaps, I must disapprove it as well.

I believe I have the authority to veto any part of this bill separately, as at least one of my predecessors has done under similar circumstances. Nonetheless, given the amount at stake, I have no choice but to do all I can to ensure that this provision is not enacted, and so I must veto the bill in its entirety.

I take no satisfaction in disapproving this legislation, any more than I do in striking the additional school aid and other legislative "adds." This bill contains a number of worthwhile legislative proposals, many of which were included in my Executive Budget. Rather than simply enact these proposals, however, the Legislature has sought to use this bill to lock in more than \$400 million in spending, which it has declined to fund, and which I have used my veto power to remove. In essence, the Legislature has presented me with a Hobson's choice: veto this legislation despite the positive aspects it contains, or accept the irresponsible spending it compels, and agree thereby that New York State have a budget that is out of balance from the onset.

Faced with these alternatives, I must use whatever tools are vested in me by the State Constitution to protect the State's finances in this time of economic crisis.

The bill is disapproved.

(signed) DAVID A. PATERSON