S T A T E O F N E W Y O R K

S. 8089 A. 11370

S E N A T E - A S S E M B L Y

June 7, 2010

IN SENATE -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT making appropriations for the support of government; to amend chapter 20 of the laws of 2010, relating to making appropriations for the support of government; to amend chapter 46 of the laws of 2010, relating to making appropriations for the support of government; to amend chapter 47 of the laws of 2010, relating to making appropriations for the support of government; to amend chapter 75 of the laws of 2010, relating to making appropriations for the support of government; to amend chapter 80 of the laws of 2010, relating to making appropriations for the support of government; to amend chapter 90 of the laws of 2010, relating to making appropriations for the support of government; and to amend chapter 106 of the laws of 2010, relating to making appropriations for the support of government

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The legislature hereby finds and declares that the enactment of these appropriations provides sufficient authority to the comptroller for the purpose of making payments for the purposes described herein until such time as appropriation bills submitted by the governor pursuant to article VII of the state constitution for the support of government for the state fiscal year beginning April 1, 2010 are enacted.

S 2. Section 2 of chapter 20 of the laws of 2010, relating to making appropriations for the support of government, as amended by chapter 106 of the laws of 2010, is amended to read as follows:

S 2. The sum of two billion [seventy-two] TWO HUNDRED THIRTY-SIX million [one] EIGHT hundred [fifty-one] TWENTY-ONE thousand dollars [($2,072,151,000)] ($2,236,821,000), or so much thereof as shall be

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

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sufficient to accomplish the purpose designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purposes specified, which amount shall be available for the state fiscal year beginning April 1, 2010.

ALL STATE DEPARTMENTS AND AGENCIES

For the purpose of making payments for personal service, including liabilities incurred prior to April 1, 2010, on the payrolls scheduled to be paid during the period April 1 through June [9] 17, 2010 to state officers and employees of the executive branch, including the governor, lieutenant governor, comptroller and attorney general; to officers and employees of the judiciary; and to officers and employees of the legislature, including payments to the members of the senate and assembly under sections 5 and 5-a of the legislative law; and payments for services performed by mentally ill or developmentally disabled persons who are employed in state-operated special employment, work-for-pay or sheltered workshop programs provided that, notwithstanding any other provision of law to the contrary, the expiration dates of the exemption from licensure requirements as set forth in section 9 of chapter 420 of the laws of 2002 and section 17-a of chapter 676 of the laws of 2002 are hereby extended until June [9] 17, 2010 ..... [2,072,151,000] 2,236,821,000

S 2-a. Section 2-a of chapter 80 of the laws of 2010, relating to making appropriations for the support of government, as amended by chapter 106 of the laws of 2010, is amended to read as follows:

S 2-a. The several amounts specified in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be paid as hereinafter provided, to the respective public officers and for the several purposes specified, which amounts shall be available for the state fiscal year beginning April 1, 2010.

GENERAL STATE CHARGES

GENERAL STATE CHARGES ..... [75,726,000] 77,726,000

General Fund / State Operations
State Purposes Account - 003

For the state's contribution to the health insurance fund. The state's share of the health insurance program dividends shall

be available to pay for the premiums in 2010-11.

NOTWITHSTANDING SECTION 167-A OF THE CIVIL SERVICE LAW, EFFECTIVE APRIL 1, 2010 UPON EXCLUSION FROM THE COVERAGE OF THE HEALTH INSURANCE PLAN OF SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR WHICH AN ACTIVE OR RETIRED EMPLOYEE OR A DEPENDENT COVERED BY THE HEALTH INSURANCE PLAN IS OR WOULD BE ELIGIBLE UNDER THE FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE PROGRAM, AN AMOUNT EQUAL TO THE PREMIUM CHARGE FOR SUCH SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR SUCH ACTIVE OR RETIRED EMPLOYEE AND HIS OR HER DEPENDENTS, IF ANY, SHALL BE PAID MONTHLY OR AT OTHER INTERVALS TO SUCH ACTIVE OR RETIRED EMPLOYEE FROM THE HEALTH INSURANCE FUND. WHERE APPROPRIATE, SUCH AMOUNT MAY BE DEDUCTED FROM CONTRIBUTIONS PAYABLE BY THE EMPLOYEE OR RETIRED EMPLOYEE; OR WHERE APPROPRIATE IN THE CASE OF A RETIRED EMPLOYEE RECEIVING A RETIREMENT ALLOWANCE, SUCH AMOUNT MAY BE INCLUDED WITH PAYMENTS OF HIS OR HER RETIREMENT ALLOWANCE.

NOTWITHSTANDING SECTION 167-A OF THE CIVIL SERVICE LAW, EFFECTIVE APRIL 1, 2010, ALL STATE EMPLOYER, EMPLOYEE, RETIRED EMPLOYEE AND DEPENDENT CONTRIBUTIONS TO THE HEALTH INSURANCE FUND SHALL BE ADJUSTED AS NECESSARY TO COVER THE COST OF REIMBURSING FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM PREMIUM CHARGES MADE PURSUANT TO SECTION 167-A OF THE CIVIL SERVICE LAW. FURTHERMORE, THIS COST SHALL BE INCLUDED IN THE CALCULATION OF PREMIUM OR SUBSCRIPTION CHARGES FOR HEALTH COVERAGE PROVIDED TO STATE EMPLOYEES AND RETIRED STATE EMPLOYEES, PROVIDED, HOWEVER, THE STATE SHALL REMAIN OBLIGATED TO PAY NO LESS THAN ITS SHARE OF SUCH INCREASED COST CONSISTENT WITH ITS SHARE OF PREMIUM OR SUBSCRIPTION CHARGES PROVIDED FOR BY ARTICLE 11 OF THE CIVIL SERVICE LAW. AS SUCH, ALL OTHER EMPLOYER CONTRIBUTIONS TO THE HEALTH INSURANCE FUND SHALL BE ADJUSTED AS NECESSARY TO PROVIDE FOR SUCH PAYMENTS. ..... [48,400,000] 50,400,000

For the state's contribution to employee benefit fund programs 27,326,000

S 3. Section 3 of chapter 20 of the laws of 2010, relating to making appropriations for the support of government, as amended by chapter 106 of the laws of 2010, is amended to read as follows:

S 3. The sum of [one] TWO hundred [eighty-eight] FOUR million [seven] EIGHT hundred [fifty-one] SIXTY-TWO thousand dollars [($188,751,000)] ($204,862,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated out of any moneys in the general fund to the credit of the state purposes account not otherwise appropriated for the purpose of paying to the social security contribution fund, the state's share, as employer, of the payroll tax for payrolls scheduled to be paid during the period April 1 through June [9] 17, 2010, including liabilities incurred prior to April 1, 2010 ..... [188,751,000] 204,862,000

S 4. Section 4 of chapter 20 of the laws of 2010, relating to making appropriations for the support of government, as amended by chapter 106 of the laws of 2010, is amended to read as follows:

S 4. The sum of one hundred [twenty-nine] THIRTY thousand dollars [($129,000)] ($130,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated out of any moneys in the general fund to the credit of the state purposes account not otherwise appropriated for payments to the teachers insurance and annuity association and college retirement equities fund associated with individuals working in the education department, the higher education services corporation, and the state university of New York construction fund. Notwithstanding any other provisions of law to the contrary, the comptroller is hereby authorized and directed to utilize this appropriation for the purpose of making scheduled teachers insurance and annuity association and college retirement equities fund payments ..... [129,000] 130,000

S 5. Section 6 of chapter 46 of the laws of 2010, relating to making appropriations for the support of government, as amended by chapter 106 of the laws of 2010, is amended to read as follows:

S 6. The several amounts specified in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be paid as hereinafter provided, to the respective public officers and for the several purposes specified, which amounts shall be available for the state fiscal year beginning April 1, 2010.

THE JUDICIARY

For the payment of state operations nonpersonal service liabilities, the sum of [forty-seven] FORTY-NINE million dollars [($47,000,000)] ($49,000,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated to the judiciary out of any moneys in the general fund to the credit of the state purposes account not otherwise appropriated. The comptroller is hereby authorized and directed to utilize this appropriation for the purpose of making payments for nonpersonal service liabilities incurred by the judiciary from April 1 through June [6] 13, 2010 ..... [47,000,000] 49,000,000

The sum of four million dollars ($4,000,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated to the judiciary out of any moneys in the special revenue funds - other / aid to localities, court facility incentive aid fund -

340 for services and expenses related to court cleaning and minor repairs, interest aid, appellate aid and judicial institute financing payments 4,000,000
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S 6. Section 5 of chapter 20 of the laws of 2010, relating to making appropriations for the support of government, as amended by chapter 106 of the laws of 2010, is amended to read as follows:

S 5. The amount specified in this section, or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purposes specified, which amount shall be available for the state fiscal year beginning April 1, 2010.

ALL STATE DEPARTMENTS AND AGENCIES

For the payment of state operations nonpersonal service liabilities, including the legislature, including contracts approved prior to, on, and after April 1, 2010 for liabilities incurred in the ordinary course of business, during the period April 1 through June [6] 13, 2010, pursuant to existing state law and for purposes for which the legislature authorized the expenditure of moneys during the 2009-2010 state fiscal year; provided, however, that nothing contained herein shall be deemed to limit or restrict the power or authority of state departments or agencies to conduct their activities or operations in accordance with existing law, and further provided that nothing contained herein shall be deemed to supersede, nullify or modify the provisions of section 40 of the state finance law prescribing when appropriations made for the 2009-2010 state fiscal year shall have ceased to have force and effect ..... [165,000,000] 195,000,000
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S 7. Section 6 of chapter 20 of the laws of 2010, relating to making appropriations for the support of government, as amended by chapter 106 of the laws of 2010, is amended to read as follows:

S 6. The several amounts specified in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be paid as hereinafter provided, to the respective public officers and for the several purposes specified, which amounts shall be available for the state fiscal year beginning April 1, 2010.

AMERICAN RECOVERY AND REINVESTMENT ACT (CCP) 110,000,000

Federal Capital Projects Fund - 291
American Recovery and Reinvestment Act Purpose

The sum of seventy million dollars ($70,000,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated for contracts approved prior to April 1, 2010 for the payment by the state of the federal share of transportation related capital projects liabilities funded by the American Recovery and Reinvestment Act of 2009 incurred in the ordinary course of business from April 1 through June [6] 13, 2010, pursuant to existing state law and for purposes for which the legislature authorized the expenditures of money during the 2009-2010 fiscal year; provided, however, that nothing contained herein shall be deemed to limit or restrict the power or authority of state departments or agencies to conduct their activities or operations in accordance with existing law, and further provided that nothing contained herein shall be deemed to supersede, nullify, or modify the provisions of section 40 of the state finance law prescribing when appropriations made for the 2009-2010 fiscal year shall have ceased to have force and effect. Funds appropriated herein shall be subject to all applicable reporting and accountability requirements contained in such act 70,000,000

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The sum of forty million dollars ($40,000,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated for contracts approved for purposes for which the legislature authorized the expenditures of money during the 2009-2010 fiscal year. An amount up to forty million dollars ($40,000,000) shall be available for the payment by the state of the federal share of transportation related capital projects liabilities, funded by the American Recovery and Reinvestment Act of 2009 incurred in the ordinary course of business during the period from April 1 through June [6] 13, 2010 for contracts approved during the period April 1 through June [6] 13, 2010, provided, however, that nothing contained herein shall be deemed to limit or restrict the power or authority of state departments or agencies to conduct their activities or operations in accordance with existing law, and further provided that nothing contained herein shall be deemed to supersede, nullify, or modify the provisions of section 40 of the state finance law prescribing when appropriations made for the 2009-2010 fiscal year shall have ceased to have force and effect. Funds appropriated herein shall be subject to all applicable reporting and accountability requirements contained in such act 40,000,000

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S 8. Section 7 of chapter 20 of the laws of 2010, relating to making appropriations for the support of government, as amended by chapter 106 of the laws of 2010, is amended to read as follows:

S 7. The several amounts specified in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be paid as hereinafter provided, to the respective public officers and for the several purposes specified, which amounts shall be available for the state fiscal year beginning April 1, 2010.

ALL STATE DEPARTMENTS AND AGENCIES

The sum of thirty million dollars ($30,000,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated for contracts approved in accordance with section 112 of

the state finance law for purposes for which the legislature authorized the expenditures of money during the 2009-2010 fiscal year. An amount up to thirty million dollars ($30,000,000) shall be available for the payment of capital projects liabilities, including any contractual services liabilities of the engineering services fund, incurred to address emergency health and safety needs as certified by the director of budget during the period from April 1 through June [6] 13, 2010 for contracts approved prior to, on, or after April 1, 2010, provided, however, that nothing contained herein shall be deemed to limit or restrict the power or authority of state departments or agencies to conduct their activities or operations in accordance with existing law, and further provided that nothing contained herein shall be deemed to supersede, nullify, or modify the provisions of section 40 of the state finance law prescribing when appropriations made for the 2009-2010 fiscal year shall have ceased to have force and effect 30,000,000
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The sum of [seventy-five] TWO HUNDRED million dollars [($75,000,000)] ($200,000,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated for contracts approved in accordance with section 112 of the state finance law for purposes for which the legislature authorized the expenditures of money during the 2009-2010 fiscal year. An amount up to [seventy-five] TWO HUNDRED million dollars [($75,000,000)] ($200,000,000) shall be available for the payment of capital projects liabilities incurred [during the period from] AFTER April 1 [through May 2], 2010 for contracts approved prior to April 1, 2010, provided, however, that nothing contained herein shall be deemed to limit or restrict the power or authority of state departments or agencies to conduct their activities or operations in accordance with existing law, and further provided that nothing contained herein shall be deemed to supersede, nullify, or modify the provisions of section 40 of the state finance law prescribing when appropriations made for the 2009-2010 fiscal year shall have ceased to have force and effect ..... [75,000,000] 200,000,000
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S 9. Section 9 of chapter 47 of the laws of 2010, relating to making appropriations for the support of government, as amended by chapter 106 of the laws of 2010, is amended to read as follows:

S 9. The several amounts specified in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be paid as hereinafter provided, to the respective public officers and for the several purposes specified, which amounts shall be available for the state fiscal year beginning April 1, 2010.

DEPARTMENT OF TRANSPORTATION

FEDERAL AID HIGHWAYS FEDERAL PURPOSE 100,000,000

Federal Capital Projects Fund - 291
Federal Aid Highways Purpose

The sum of eighty million dollars ($80,000,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated for contracts approved prior to April 1, 2010 for the

payment by the state of the federal share of transportation related capital projects liabilities as provided for in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and any successive legislation incurred in the ordinary course of business from April 1 through June [6] 13, 2010, [for projects that do not contain any state funding shares, and from April 1 through May 2, for projects containing state funding shares that are eligible to be funded by bond proceeds, and only to the extent that bond proceeds are available,] pursuant to existing state law and for purposes for which the legislature authorized the expenditures of money during the 2009-2010 fiscal year; provided, however, that nothing contained herein shall be deemed to limit or restrict the power or authority of state departments or agencies to conduct their activities or operations in accordance with existing law, and further provided that nothing contained herein shall be deemed to supersede, nullify, or modify the provisions of section 40 of the state finance law prescribing when appropriations made for the 2009-2010 fiscal year shall have ceased to have force and effect. Funds appropriated herein shall not be available for the payment of liabilities funded by the American Recovery and Reinvestment Act of 2009 80,000,000

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The sum of twenty million dollars ($20,000,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated for contracts approved during the period from April 1 through June [6] 13, 2010 for the payment by the state of the federal share of transportation related capital projects liabilities as provided for in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and any successive legislation incurred in the ordinary course of business from April 1 through June [6] 13, 2010, for projects that do not contain any state funding shares, or for projects containing both state funding shares that are eligible to be funded by bond proceeds to the extent that such bond proceeds are available and federal shares funded by the American Recovery and Reinvestment Act of 2009, pursuant to existing state law and for purposes for which the legislature authorized the expenditures of money during the 2009-2010 fiscal year; provided, however, that nothing contained herein shall be deemed to limit or restrict the power or authority of state departments or agencies to conduct their activities or operations in accordance with existing law, and further provided that nothing contained herein shall be deemed to supersede, nullify, or modify the provisions of section 40 of the state finance law prescribing when appropriations made for the 2009-2010 fiscal year shall have ceased to have force and effect. Funds appropriated herein shall not be available for the payment of liabilities funded by the American Recovery and Reinvestment Act of 2009 20,000,000

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NEW YORK STATE AGENCY FUND (CCP) 10,000,000

Fiduciary Funds/Capital Projects
Highway Costs Improvement Accounts
Non-Federal Aided Highway Purpose

The sum of ten million dollars ($10,000,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated for contracts approved prior to, on or after April 1, 2010 for the payment of transportation related capital projects liabilities incurred by the department of transportation on behalf of entities other than state departments or agencies pursuant to the highway law or transportation law incurred in the ordinary course of business from April 1 through June [6] 13, 2010 10,000,000

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S 10. Section 9-b of chapter 90 of the laws of 2010, relating to making appropriations for the support of government, as amended by chapter 106 of the laws of 2010, is amended to read as follows:

S 9-b. The amount specified in this section, or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purpose specified, which amount shall be available for the state fiscal year beginning April 1, 2010.

DEPARTMENT OF TRANSPORTATION

The sum of one million dollars ($1,000,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated for contracts approved during the period from April 1, 2010 through June [6] 13, 2010, for the payment by the state of the state share of transportation related capital projects liabilities incurred in the ordinary course of business from April 1, 2010 through June [6] 13, 2010, including construction inspection, funded by the dedicated highway and bridge trust fund - non-federal aided highway purpose and preparation of plans purpose and/or the rebuild and renew New York transportation bond act of 2005 - highway facilities purpose, only for the shares of projects that are eligible to be funded by bond proceeds, only to the extent that bond proceeds are available, and only for capital projects that contain funding shares from the American Recovery and Reinvestment Act of 2009, pursuant to existing state law and for purposes for which the legislature authorized the expenditures of money during the 2009-2010 fiscal year; provided, however, that nothing contained herein shall be deemed to limit or restrict the power or authority of state departments or agencies to conduct their activities or operations in accordance with existing law, and further provided that nothing contained herein shall be deemed to supersede, nullify, or modify the provisions of section 40 of the state finance law prescribing when appropriations made for the 2009-2010 fiscal year shall have ceased to have force and effect 1,000,000

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S 11. The several amounts specified in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be paid as hereinafter provided, to the respective public officers and for the several purposes specified, which amounts shall be available for the state fiscal year beginning April 1, 2010.

OFFICE FOR THE AGING

COMMUNITY SERVICES PROGRAM 869,000

General Fund / Aid to Localities
Local Assistance Account - 001

For services and expenses related to the congregate services initiative. No expenditures shall be made from this appropriation until the director of the budget has approved a plan submitted by the office outlining the amounts and purposes of such expenditures and the allocation of funds among the counties 806,000

For services and expenses of New York State-wide Senior Action Council, Inc. for the patients' rights hotline and advocacy project 63,000

Program account subtotal 869,000

DEPARTMENT OF HEALTH

CENTER FOR COMMUNITY HEALTH PROGRAM 512,727,000

General Fund / Aid to Localities
Local Assistance Account - 001

State aid to municipalities for the operation of local health departments and laboratories and for the provision of general public health services pursuant to article 6 of the public health law for activities under the jurisdiction of the commissioner of health.

Notwithstanding any other provision of article 6 of the public health law, a county may obtain reimbursement pursuant to this act, only after the county chief financial officer certifies, in the municipal health services plan, that county tax levies used to fund services carried out by the county health department have not been added to or supplanted directly or indirectly by any funds obtained by the county pursuant to the Master Settlement Agreement entered into on November 23, 1998 by the state and leading United States tobacco product manufacturers, except in the case of a public health emergency, as determined by the commissioner of health.

Notwithstanding annual aggregate limits for bad debt and charity care allowances and any other provision of law, up to $1,700,000 shall be transferred to the medical assistance program general fund - local assistance account for eligible publicly sponsored certified home health agencies that demonstrate losses from a disproportionate share of bad debt and charity care, pursuant to chapter 884 of the laws of 1990. Within the maximum limits specified herein, the department shall transfer only those funds which are necessary to meet the state share requirements for disproportionate share adjustments expected to be paid for the period January 1, 2010 through December 31, 2010. The moneys hereby appropriated shall be available for payment of financial assistance heretofore accrued 284,763,000

For services and expenses to implement the early intervention program act of 1992. The moneys hereby appropriated shall be available for payment of financial assistance heretofore accrued or hereafter to accrue. Notwithstanding the provisions of any other law to the contrary, for state fiscal year 2010-2011 the liability of the state and the amount to be distributed or otherwise expended by the state pursuant to section 2557 of the public health law shall be determined by first calculating the amount of the expenditure or other liability pursuant to such law, and then reducing the amount so calculated by two percent of such amount 176,800,000

For services and expenses of health promotion initiatives. A portion of this appropriation may be transferred to state operations appropriations for administration of this program 1,140,000

For services and expenses related to evidenced based cancer services programs. A portion of this appropriation may be transferred to state operations appropriations for administration of this program 9,006,750

For services and expenses related to obesity and diabetes programs. A portion of this appropriation may be transferred to state operations appropriations for administration of this program 7,205,000

For state grants to improve access to infertility services, treatments, and procedures. Funds shall be allocated from this appropriation pursuant to a plan prepared

by the commissioner of health and approved by the director of the budget 1,847,000
For services and expenses related to statewide health broadcasts involving local, state and federal agencies. A portion of this appropriation may be transferred to state operations appropriations for administration of this program 83,500
For services and expenses of the comprehensive care centers for eating disorders program 250,000
For services and expenses of a safe motherhood initiative to prevent maternal deaths in New York state. A portion of this appropriation may be transferred to state operations appropriations for administration of this program 73,500
For services and expenses for statewide maternal mortality reviews and the development of protocols to reduce incidents of death during childbirth. A portion of this appropriation may be transferred to state operations appropriations for administration of this program 66,250

Program account subtotal 481,235,000

Special Revenue Funds - Other / Aid to Localities
HCRA Resources Fund - 061
Health Care Services Account

For services and expenses related to the Indian health program. The moneys hereby appropriated shall be available for reimbursement to pharmacies participating in such program prior to, on or after April 1, for liabilities heretofore accrued or hereafter to accrue 2,084,000
For services and expenses related to evidenced based cancer services programs. A portion of this appropriation may be transferred to state operations appropriations for administration of this program ... 18,417,000
For services and expenses of the maternity and early childhood foundation 599,000

Program account subtotal 21,100,000

Special Revenue Funds - Other / Aid to Localities
HCRA Resources Fund - 061
Hospital Based Grants Program Account

For services and expenses of a lead poisoning prevention program 392,000

Program account subtotal 392,000

Special Revenue Funds - Federal / Aid to Localities
Federal USDA-Food and Nutrition Services Fund - 261
Federal Food and Nutrition Services Account

For various federal food and nutritional services. The moneys hereby appropriated shall be available for contracts approved prior to, on, or after April 1, 2010, and for the payment of financial assistance heretofore accrued or hereafter to accrue ... 10,000,000

Program account subtotal 10,000,000

CHILD HEALTH INSURANCE PROGRAM 990,200,000

Special Revenue Funds - Federal / Aid to Localities
Federal Health and Human Services Fund - 265
Children's Health Insurance Account

The money hereby appropriated is available for payment of aid heretofore accrued or hereafter accrued.
Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, for purposes of making subsidy payments to approved organizations under the Child Health Insurance Program, the commissioner of health shall adjust such payments so that the amount of each such payment, as otherwise calculated pursuant to subdivision 8 of section 2511 of the public health law, is reduced by twenty-eight percent of the amount by which such calculated payment exceeds the statewide average subsidy payment for all approved organizations in effect on April 1, 2010; provided, however, that such statewide average subsidy payment shall be calculated by the commissioner and shall not reflect adjustments made pursuant to this paragraph; and provided further that, if this act provides sufficient additional funding to support subsidy payments without such twenty-eight percent reductions, then the provisions of this appropriation shall be deemed null and void as of March 31, 2010.
For services and expenses related to the children's health insurance program,

pursuant to title XXI of the federal social security act. 514,600,000

Program account subtotal 514,600,000

Special Revenue Funds - Other / Aid to Localities
HCRA Resources Fund - 061
Children's Health Insurance Account

The money hereby appropriated is available for payment of aid heretofore accrued or hereafter accrued.
Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, for purposes of making subsidy payments to approved organizations under the Child Health Insurance Program, the commissioner of health shall adjust such payments so that the amount of each such payment, as otherwise calculated pursuant to subdivision 8 of section 2511 of the public health law, is reduced by twenty-eight percent of the amount by which such calculated payment exceeds the statewide average subsidy payment for all approved organizations in effect on April 1, 2010; provided, however, that such statewide average subsidy payment shall be calculated by the commissioner and shall not reflect adjustments made pursuant to this paragraph; and provided further that, if this act provides sufficient additional funding to support subsidy payments without such twenty-eight percent reductions, then the provisions of this appropriation shall be deemed null and void as of March 31, 2010.
For services and expenses related to the children's health insurance program authorized pursuant to title 1-A of article 25 of the public health law 475,600,000

Program account subtotal 475,600,000

ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM 328,350,000

Special Revenue Funds - Other / Aid to Localities
HCRA Resources Fund - 061
EPIC Premium Account

For services and expenses of the program for elderly pharmaceutical insurance coverage, including reimbursement to pharmacies participating in such program. Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period October 1, 2010 through March 31, 2011, for a participant in the program for elderly pharmaceutical insurance coverage whose prescription drug expenses are paid or reimbursable under the provisions of the medicare program, assistance under the program for elderly pharmaceutical insurance coverage shall be limited to prescription drugs covered by the participant's medicare plan and to drugs excluded from medicare coverage in accordance with section 1860-D-2 of the federal social security act, and in such cases the program for elderly pharmaceutical insurance coverage shall cover the amount that is the responsibility of the participant under the medicare plan benefit, subject to the participant's cost-sharing responsibility on such amount under section 247 or section 248 of the elder law; provided, however, that coverage under the elderly pharmaceutical insurance coverage program shall be available only after the participant has first exhausted the first two levels of appeal available under Part D of title XVIII of the federal social security act and the appeal has been denied; and provided further that during the medicare coverage determination and appeal period, the elderly pharmaceutical insurance coverage program shall provide up to a 90 day supply of the prescribed medication, or such lesser supply as specified on the prescription, if (i) the pharmacist notifies the prescriber that the participant's Medicare Part D plan and the elderly pharmaceutical insurance coverage program have denied payment for the prescribed medication and that if the prescriber does not choose to change the prescription to a drug that is covered by the participant's Medicare Part D plan, a Medicare Part D appeal must be pursued and (ii) the prescriber notifies the elderly pharmaceutical insurance coverage program of the prescriber's intent to provide necessary information and cooperation in the pursuit of the Medicare Part D appeal; and provided further that, in instances where

the pharmacist is unable to immediately reach the prescriber, the elderly pharmaceutical insurance coverage program shall, upon the request of the pharmacist, authorize a three day emergency supply of the prescribed medication; and provided further that the elderly pharmaceutical insurance coverage program shall authorize such additional 90 day supplies of the prescribed medication, or such lesser supply as specified on the prescription, and such additional three day emergency supplies as required to ensure coverage of the prescribed medication during the pendency of the Medicare Part D appeal; provided however that, if this act appropriates sufficient additional funds to permit the elderly pharmaceutical insurance coverage program to provide coverage for prescription drugs without regard to the limitations described in this section, then the provisions of this paragraph shall not apply and shall be considered null and void as of September 30, 2010. The moneys hereby appropriated shall be available for payment of financial assistance heretofore accrued 202,550,000

Program account subtotal 202,550,000

Special Revenue Funds - Other / Aid to Localities
Miscellaneous Special Revenue Fund - 339
EPIC Premium Account

For services and expenses of the program for elderly pharmaceutical insurance coverage, including reimbursement to pharmacies participating in such program. Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period October 1, 2010 through March 31, 2011, for a participant in the program for elderly pharmaceutical insurance coverage whose prescription drug expenses are paid or reimbursable under the provisions of the medicare program, assistance under the program for elderly pharmaceutical insurance coverage shall be limited to prescription drugs covered by the participant's medicare plan and to drugs excluded from medicare coverage in accordance with section 1860-D-2 of the federal social security act, and in such cases the program for elderly pharmaceutical insurance coverage shall cover the

amount that is the responsibility of the participant under the medicare plan benefit, subject to the participant's cost-sharing responsibility on such amount under section 247 or section 248 of the elder law; provided, however, that coverage under the elderly pharmaceutical insurance coverage program shall be available only after the participant has first exhausted the first two levels of appeal available under Part D of title XVIII of the federal social security act and the appeal has been denied; and provided further that during the medicare coverage determination and appeal period, the elderly pharmaceutical insurance coverage program shall provide up to a 90 day supply of the prescribed medication, or such lesser supply as specified on the prescription, if (i) the pharmacist notifies the prescriber that the participant's Medicare Part D plan and the elderly pharmaceutical insurance coverage program have denied payment for the prescribed medication and that if the prescriber does not choose to change the prescription to a drug that is covered by the participant's Medicare Part D plan, a Medicare Part D appeal must be pursued and (ii) the prescriber notifies the elderly pharmaceutical insurance coverage program of the prescriber's intent to provide necessary information and cooperation in the pursuit of the Medicare Part D appeal; and provided further that, in instances where the pharmacist is unable to immediately reach the prescriber, the elderly pharmaceutical insurance coverage program shall, upon the request of the pharmacist, authorize a three day emergency supply of the prescribed medication; and provided further that the elderly pharmaceutical insurance coverage program shall authorize such additional 90 day supplies of the prescribed medication, or such lesser supply as specified on the prescription, and such additional three day emergency supplies as required to ensure coverage of the prescribed medication during the pendency of the Medicare Part D appeal; provided however that, if this act appropriates sufficient additional funds to permit the elderly pharmaceutical insurance coverage program to provide coverage for prescription drugs without regard to the limitations described in this section,

then the provisions of this paragraph shall not apply and shall be considered null and void as of September 30, 2010. The moneys hereby appropriated shall be available for payment of financial assistance heretofore accrued 125,800,000

Program account subtotal 125,800,000

HEALTH CARE REFORM ACT PROGRAM 10,700,000

Special Revenue Funds - Other / Aid to Localities
HCRA Resources Fund - 061
HCRA Program Account

For services, expenses, grants and transfers necessary to implement the health care reform act program in accordance with section 2807-j, 2807-k, 2807-l, 2807-m, 2807-p, 2807-s and 2807-v of the public health law. The moneys hereby appropriated shall be available for payments heretofore accrued or hereafter to accrue. Notwithstanding any inconsistent provision of law, the moneys hereby appropriated may be increased or decreased by interchange or transfer with any appropriation of the department of health or by transfer or suballocation to any appropriation of the department of insurance, the office of mental health and the state office for the aging subject to the approval of the director of the budget, who shall file such approval with the department of audit and control and copies thereof with the chairman of the senate finance committee and the chairman of the assembly ways and means committee. With the approval of the director of the budget, up to 5 percent of this appropriation may be used for state operations purposes. At the direction of the director of the budget, funds may also be transferred directly to the general fund for the purpose of repaying a draw on the tobacco revenue guarantee fund.
For transfer to the Roswell park cancer institute to support operating costs associated with cancer research. A portion of this appropriation may be transferred to state operations appropriations 6,000,000
For transfer to the pool administrator for state grants for poison control centers. A portion of this appropriation may be transferred to state operations appropri-

ations. Notwithstanding any inconsistent provision of law, rule or regulation, allocations made pursuant to subparagraph (iv) of paragraph (c) of subdivision 1 of section 2807-l of the public health law for distributions to poison control centers pursuant to subdivision 7 of section 2500-d of the public health law shall be reduced by $2,000,000 for the period April 1, 2010 through March 31, 2011; provided, however, if this act provides sufficient additional funding to support distributions to poison control centers at amounts set forth in subparagraph (iv) of paragraph (c) of subdivision 1 of section 2807-l of the public health law, then the provisions of this section shall be null and void as of March 31, 2010 2,500,000

For additional state grants to improve access to infertility services, treatments, and procedures 2,200,000

Program account subtotal 10,700,000

MEDICAL ASSISTANCE PROGRAM 50,080,289,000

General Fund / Aid to Localities
Local Assistance Account - 001

For the medical assistance program, including administrative expenses, for local social services districts, and for medical care rates for authorized child care agencies.

The money hereby appropriated is to be available for payment of aid heretofore accrued or hereafter to accrue to municipalities, and to providers of medical services pursuant to section 367-b of the social services law, and for payment of state aid to municipalities and to providers of family care where payment systems through the fiscal intermediaries are not operational, and shall be available to the department net of disallowances, refunds, reimbursements, and credits.

Notwithstanding any inconsistent provision of law to the contrary, funds may be used by the department for outside legal assistance on issues involving the federal government, the conduct of preadmission screening and annual resident reviews required by the state's medicaid program,

computer matching with insurance carriers to insure that medicaid is the payer of last resort and activities related to the management of the pharmacy benefit available under the medicaid program.

Notwithstanding any inconsistent provision of law, in lieu of payments authorized by the social services law, or payments of federal funds otherwise due to the local social services districts for programs provided under the federal social security act or the federal food stamp act, funds herein appropriated, in amounts certified by the state commissioner of temporary and disability assistance or the state commissioner of health as due from local social services districts each month as their share of payments made pursuant to section 367-b of the social services law may be set aside by the state comptroller in an interest-bearing account in order to ensure the orderly and prompt payment of providers under section 367-b of the social services law pursuant to an estimate provided by the commissioner of health of each local social services district's share of payments made pursuant to section 367-b of the social services law.

Notwithstanding any other provision of law, the money hereby appropriated may be increased or decreased by interchange, with any appropriation of the department of health and the office of medicaid inspector general and may be increased or decreased by transfer or suballocation between these appropriated amounts and appropriations of the office of mental health, office of mental retardation and developmental disabilities, the office of alcoholism and substance abuse services, the department of family assistance office of temporary and disability assistance and office of children and family services, and state office for the aging with the approval of the director of the budget, who shall file such approval with the department of audit and control and copies thereof with the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

Notwithstanding any inconsistent provision of law to the contrary, the moneys hereby appropriated may be used for payments to the centers for medicaid and medicare services for obligations incurred related

to the pharmaceutical costs of dually eligible medicare/medicaid beneficiaries participating in the medicare drug benefit authorized by P.L. 108-173.

Notwithstanding any inconsistent provision of law, the moneys hereby appropriated shall not be used for any existing rates, fees, fee schedule, or procedures which may affect the cost of care and services provided by personal care providers, case managers, health maintenance organizations, out of state medical facilities which provide care and services to residents of the state, providers of transportation services, that are altered, amended, adjusted or otherwise changed by a local social services district unless previously approved by the department of health and the director of the budget.

Notwithstanding paragraph (c) of subdivision 10 of section 2807-c of the public health law, subdivision 2-b of section 2808 of the public health law, section 21 of chapter 1 of the laws of 1999, and any other contrary provision of law, in determining rates of payments by state governmental agencies effective for services provided on and after April 1, 2010 through March 31, 2011, for inpatient and outpatient services provided by general hospitals, for inpatient services and adult day health care outpatient services provided by residential health care facilities pursuant to article 28 of the public health law, except for residential health care facilities that provide extensive nursing, medical, psychological and counseling support services to children, for home health care services provided pursuant to article 36 of the public health law by certified home health agencies, long term home health care programs and AIDS home care programs, and for personal care services provided pursuant to section 365-a of the social services law, the commissioner of health shall apply zero trend factor projections attributable to the 2010 calendar year in accordance with paragraph (c) of subdivision 10 of section 2807-c of the public health law, provided, however, that such zero trend factor projections for such 2010 calendar year shall also be applied to rates of payment for personal care services provided in those local social services districts, including New York city, whose rates of

payment for such services are established by such local social services districts pursuant to a rate-setting exemption issued by the commissioner of health to such local social services districts in accordance with applicable regulations, and provided further, however, that for rates of payment for assisted living program services provided on and after April 1, 2010 through March 31, 2011, trend factor projections attributable to the 2010 calendar year shall be established at zero percent.

For services and expenses of the medical assistance program including hospital inpatient services.

Notwithstanding any inconsistent provision of law, rule or regulation and subject to the availability of federal financial participation, for the period July 1, 2010 through March 31, 2011, hospital inpatient rate adjustments shall be made in accordance with regulations which the commissioner of health shall promulgate in accordance with the provisions of subparagraph (v) of paragraph (b) of subdivision 35 of section 2807-c of the public health law and which shall be effective on and after July 1, 2010 that incorporate quality related measures pertaining to potentially preventable readmissions. Such regulations shall incorporate a risk adjusted comparison of the actual and expected number of potentially preventable readmissions in a given hospital with benchmarks established by the commissioner of health, provided, however, that the application of such regulations shall result in an aggregate reduction in medicaid payments of no less than $35,000,000 for the period July 1, 2010 through March 31, 2011 provided, however, that for the period July 1, 2010 through March 31, 2011 such rate adjustments shall not reflect the application of this section to behavioral health readmissions.

Notwithstanding any inconsistent provision of law, rule or regulation, hospital inpatient rate adjustments made in accordance with the methodology specified in subdivision 6 of section 2500-d of the public health law shall be reduced by up to $1,000,000 for the period April 1, 2010 through March 31, 2011; provided, however, if this act provides sufficient additional

funding to support such rate adjustments without the aggregate reductions, then the provisions of this section shall be deemed null and void as of March 31, 2010 701,921,000

For services and expenses of the medical assistance program including hospital outpatient and emergency room services 329,465,000

For services and expenses of the medical assistance program including clinic services 126,704,000

For services and expenses of the medical assistance program including nursing home services.

Notwithstanding any inconsistent provision of law or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, the commissioner of health shall not be required to revise certified rates of payment established pursuant to the public health law prior to April 1, 2011, based on consideration of rate appeals filed by residential health care facilities pursuant to section 2808 of the public health law or based upon adjustments to capital cost reimbursement as a result of approval by the commissioner of health of an application for construction under section 2802 of the public health law, in excess of aggregate amount of $80,000,000, provided, however, that in revising such rates within such fiscal limits the commissioner shall, in prioritizing such rate appeals include consideration of which facilities the commissioner determines are facing significant financial hardship, as well as such other considerations as the commissioner deems appropriate, and, further, the commissioner is authorized to enter into agreements with such facilities or any other facility to resolve multiple pending rate appeals based upon a negotiated aggregate amount and may offset such negotiated aggregate amounts against any amounts owed by the facility to the department of health, including, but not limited to, amounts owed pursuant to section 2807-d of the public health law, provided further, however, that such rate adjustment made pursuant to this section remain fully subject to approval by the director of the budget in accordance with the provisions of subdivision 2 of section 2807 of the public health law. Provided, however, if this act appropriates sufficient additional funds to support processing of residential health care facility

rate appeal adjustments as otherwise provided for in the public health law, than the provisions of this section shall be deemed null and void.

Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, a "reserved bed day" is defined as a day for which a governmental agency pays a residential health care facility to reserve a bed for a person eligible for medical assistance pursuant to title 11 of article 5 of the social services law while he or she is temporarily hospitalized or on leave of absence from the facility; provided further that for reserved bed days provided on behalf of persons 21 years of age or older: (i) payments for reserved bed days shall be made at 95 percent of the medicaid rate otherwise payable to the facility for services provided on behalf of such person; (ii) payment to a facility for reserved bed days provided on behalf of such person for temporary hospitalizations may not exceed 14 days in any 12 month period; and (iii) payment to a facility for reserved bed days provided on behalf of such person for non-hospitalization leaves of absence may not exceed 10 days in any 12 month period. Provided, however, if this act appropriates sufficient additional funds to permit payment for reserved bed days to be made at the full medicaid rate otherwise payable to the facility for services provided on behalf of such person, and to not restrict payments for reserved bed days to such 14 day and 10 day limitations, then the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010.

Notwithstanding any inconsistent provision of law, for the period April 1, 2010 through March 31, 2011, residential health care facility medicaid rates of payment shall not include reimbursement for the cost of prescription drugs. Such reimbursement shall be in accordance with otherwise applicable provisions of section 367-a of the social services law 1,684,083,000

For services and expenses of the medical assistance program including other long term care services.

Notwithstanding any inconsistent provision of law, rule or regulation to the contra-

ry, for the period April 1, 2010 through March 31, 2011, for purposes of operating the long term care assessment center demonstration program pursuant to section 367-w of the social services law, the department of health shall designate one or more long-term care assessment centers to be established in and together serve an entire county within the city of New York and shall designate a long term care assessment center to be established in another region consisting of one or more contiguous counties elsewhere in the state. Provided, however, if this act appropriates sufficient additional funds to support operation of the long term care assessment center demonstration program through one assessment center in a county within the city of New York, then the provisions of this appropriation shall be deemed null and void.

Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, continued provision of long term home health care program, AIDS home care program or certified home health agency services paid for by government funds shall be based upon a comprehensive assessment of the medical, social and environmental needs of the recipient of the services which shall be performed at least every 180 days by the provider of a long term home health care program, AIDS home care program or the certified home health agency providing services for the patient and the local department of social services; provided, however, if this act appropriates sufficient additional funds to require that such assessments be performed no less frequently than once every 120 days, then the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010 1,865,765,000

For services and expenses of the medical assistance program including managed care services 2,000,066,000

For services and expenses of the medical assistance program including pharmacy services.

Notwithstanding any law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, the commissioner of health shall provide five days public notice on the department's website

of any recommendations developed by the pharmacy and therapeutics committee regarding the preferred drug program; provided however that, if this act appropriates sufficient additional funds to permit the commissioner to provide thirty days public notice on the department's website of any such recommendations, the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010 78,950,000

For services and expenses of the medical assistance program including transportation services.

Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, the commissioner of health is authorized to assume responsibility from a local social services official for the provision and reimbursement of Medicaid transportation costs under section 365-h of the social services law. Such services, whether managed by the local social services official or the commissioner of health, shall be provided in a safe, timely, and reliable manner by providers that comply with state and local regulatory requirements, and shall meet consumer satisfaction criteria approved by the commissioner of health. If the commissioner elects to assume such responsibility, the commissioner shall notify the local social services official in writing as to the election, the date upon which the election shall be effective and such information as to transition of responsibilities as the commissioner deems prudent. The commissioner is authorized to contract with a transportation manager or managers to manage transportation services in any local social services district. Any transportation manager or managers selected by the commissioner to manage transportation services shall have proven experience in coordinating transportation services in a geographic and demographic area similar to the area in New York state within which the contractor would manage the provision of such services. Such a contract or contracts may include responsibility for: review, approval and processing of transportation orders; management of the appropriate level of transportation based on documented patient medical need; and develop-

ment of new technologies leading to efficient transportation services. If the commissioner elects to assume such responsibility from a local social services district, the commissioner shall examine and, if appropriate, adopt quality assurance measures that may include, but are not limited to, global positioning tracking system reporting requirements and service verification mechanisms. Any and all reimbursement rates developed by transportation managers under this paragraph shall be subject to the review and approval of the commissioner. Notwithstanding any inconsistent provision of sections 112 and 163 of the state finance law, or section 142 of the economic development law, or any other law, the commissioner is authorized to enter into a contract or contracts without a competitive bid or request for proposal process, provided, however, that the department shall post on its website, for a period of no less than 30 days: (i) a description of the proposed services to be provided pursuant to the contract or contracts; (ii) the criteria for selection of a contractor or contractors; (iii) the period of time during which a prospective contractor may seek selection, which shall be no less than 30 days after such information is first posted on the website; (iv) and the manner by which a prospective contractor may seek such selection, which may include submission by electronic means; and provided, further, that all reasonable and responsive submissions that are received from prospective contractors in a timely fashion shall be reviewed by the commissioner; and provided, further, that the commissioner shall select such contractor or contractors that, in his or her discretion, are best suited to serve the purposes of this appropriation. Provided, however, if this act appropriates sufficient additional funds to permit local social services officials to maintain responsibility for management of Medicaid transportation services without assumption of such responsibility by the commissioner of health, then the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010 90,000,000

For services and expenses of the medical

assistance program including dental services 81,005,000

For services and expenses of the medical assistance program including non-institutional and other spending.

Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011: (i) any utilization controls on occupational therapy or physical therapy services under the Medicaid program, including, but not limited to, prior approval of services, utilization thresholds or other limitations imposed on such therapy services in relation to a chronic condition in clinics certified under article 28 of the public health law or article 16 of the mental hygiene law shall be developed by the department of health in concurrence with the office of mental retardation and developmental disabilities; (ii) such utilization controls shall be in accord with nationally recognized professional standards and, in the event that nationally recognized standards do not exist, such thresholds shall be based upon reasonably recognized professional standards of those with a specific expertise in treating individuals served by clinics certified under article 28 of the public health law or article 16 of the mental hygiene law; and (iii) prior approval by the department of health of a physical therapy evaluation or an occupational therapy evaluation by a qualified practitioner practicing within the scope of such practitioner's licensure shall not be required; provided that the department of health may require prior approval for treatment as recommended by such an evaluation and, in the event that prior approval is required, and the department of health fails to make a determination within eight days of presentation of a treatment request for physical or occupational therapy services, the department of health shall automatically approve four therapy visits; and provided, further, that if, upon completion of such four therapy visits, the department has not yet rendered a determination on the request for physical or occupational therapy services, the department shall automatically approve an additional four therapy visits and that such subsequent automatic approval shall be issued in the same

manner until such time as the department issues a determination, but in no event shall such approvals exceed the number of services or the period of time recommended by the evaluation; and provided further that, in the case of any denial of a prior approval request for physical therapy or occupational therapy, the department of health shall provide a reasonable opportunity for the qualified practitioner to provide his or her assessment of the beneficiary's physical and functional status as documented in a treatment plan with reasonable and obtainable goals; and provided further that, if the qualified practitioner provides documentation that is in accord with reasonably recognized professional standards, the recommended treatment plan shall be final, and the prior approval request shall be approved. Provided, however, if this act appropriates sufficient additional funds to permit payment under the Medicaid program for occupational therapy and physical therapy without the utilization control and prior approval features described in this appropriation, then the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010.

Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, moneys paid by an applicant or recipient of supplemental security income benefits under section 209 of the social services law or of medical assistance under section 366 of such law, to a funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation, under or in connection with an agreement, or any option to enter into an agreement, for the sale of merchandise to be used in connection with a funeral or burial, or for the furnishing of personal services of a funeral director or undertaker, wherein the merchandise is not to be actually physically delivered or the personal services are not to be rendered until the occurrence of the death of the person for whose funeral or burial such merchandise or services are to be furnished, shall be placed into an irrevocable trust if the person for whose funeral or burial such merchandise or services are to be furnished is a family

member of such applicant and recipient. Under the terms of such an irrevocable trust, such applicant or recipient (and after the death of such applicant or recipient, the family member) shall have the right to select any funeral firm, funeral director, undertaker, cemetery or any other person, firm or corporation to whom such payment is made and to change such selection any time to any type of funeral or any funeral firm, funeral director, cemetery or any other person, firm or corporation to whom such payment is made, located in the state of New York or any other state. Any funds remaining in such an irrevocable trust after the payment of all funeral expenses must be paid over to the social services official responsible for arranging for burials under section 141 of the social services law in the local government subdivision where the decedent resided. Any such agreement, and any promotional literature prepared by a funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation for prearranged funeral and burial services must contain language disclosing the irrevocable nature of burial trusts established for a family member by an applicant or recipient of supplemental security income benefits or medical assistance. Provided, however, if this act appropriates sufficient additional funds to permit such agreements purchased for family members by applicants or recipients of supplemental security income benefits or medical assistance to be revocable, then the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010 590,143,000

Notwithstanding any inconsistent provision of law, subject to the approval of the director of the budget, up to the amount appropriated herein, together with any available federal matching funds, may be transferred to the general fund - state purposes account for services and expenses related to utilization review activities including but not limited to utilization management for radiology and transportation management services 10,500,000

Notwithstanding any inconsistent provision of law, subject to the approval of the director of the budget, up to the amount appropriated herein, together with any

available federal matching funds, may be transferred to the general fund - state purposes account for services and expenses related to required criminal background checks for non-licensed long-term care employees including employees of nursing homes, certified home health agencies, long term home health care providers, AIDS home care providers, and licensed home care service agencies 11,705,000

Notwithstanding any inconsistent provision of section 112 or 163 of the state finance law or any other contrary provision of the state finance law or any other contrary provision of law, the commissioner of health may, without a competitive bid or request for proposal process, enter into contracts with one or more certified public accounting firms for the purpose of conducting audits of disproportionate share hospital payments made by the state of New York to general hospitals and for the purpose of conducting audits of hospital cost reports as submitted to the state of New York in accordance with article 28 of the public health law. Notwithstanding any inconsistent provisions of law, subject to the approval of the director of the budget, up to the amount appropriated herein, together with any available federal matching funds, may be transferred to the general fund - state purposes account 2,300,000

Notwithstanding any inconsistent provision of law, subject to the approval of the director of the budget, moneys appropriated herein may be transferred to the general fund, state purposes account for services and expenses related to the independent audit of the internal controls of the school and preschool supportive health services programs as required by the New York state school supportive health services program compliance agreement with the centers for medicare and medicaid services.

Notwithstanding any inconsistent provision of law, subject to the approval of the director of the budget, the amount appropriated herein may be increased or decreased by interchange with any appropriation of the department of health 400,000

For services and expenses of the medical assistance program including medical services provided at state facilities operated by the office of mental health,

the office of mental retardation and developmental disabilities and the office of alcoholism and substance abuse services 3,550,000,000

Program account subtotal 11,123,007,000

Special Revenue Funds - Federal / Aid to Localities
Federal Health and Human Services Fund - 265
Medicaid Direct Account

For services and expenses for the medical assistance program, including administrative expenses for local social services districts, pursuant to title XIX of the federal social security act or its successor program.

The moneys hereby appropriated are to be available for payment of aid heretofore accrued or hereafter to accrue to municipalities, and to providers of medical services pursuant to section 367-b of the social services law, and for payment of state aid to municipalities and to providers of family care where payment systems through the fiscal intermediaries are not operational, shall be available to the department net of disallowances, refunds, reimbursements, and credits.

Notwithstanding any other provision of law, the money hereby appropriated may be increased or decreased by interchange, with any appropriation of the department of health and the office of medicaid inspector general and may be increased or decreased by transfer or suballocation between these appropriated amounts and appropriations of the office of mental health, office of mental retardation and developmental disabilities, the office of alcoholism and substance abuse services, the department of family assistance office of temporary and disability assistance, office of children and family services, and state office for the aging with the approval of the director of the budget, who shall file such approval with the department of audit and control and copies thereof with the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

Notwithstanding any inconsistent provision of law, in lieu of payments authorized by the social services law, or payments of federal funds otherwise due to the local

social services districts for programs provided under the federal social security act or the federal food stamp act, funds herein appropriated, in amounts certified by the state commissioner of temporary and disability assistance or the state commissioner of health as due from local social services districts each month as their share of payments made pursuant to section 367-b of the social services law may be set aside by the state comptroller in an interest-bearing account in order to ensure the orderly and prompt payment of providers under section 367-b of the social services law pursuant to an estimate provided by the commissioner of health of each local social services district's share of payments made pursuant to section 367-b of the social services law.

Notwithstanding paragraph (c) of subdivision 10 of section 2807-c of the public health law, subdivision 2-b of section 2808 of the public health law, section 21 of chapter 1 of the laws of 1999, and any other contrary provision of law, in determining rates of payments by state governmental agencies effective for services provided on and after April 1, 2010 through March 31, 2011, for inpatient and outpatient services provided by general hospitals, for inpatient services and adult day health care outpatient services provided by residential health care facilities pursuant to article 28 of the public health law, except for residential health care facilities that provide extensive nursing, medical, psychological and counseling support services to children, for home health care services provided pursuant to article 36 of the public health law by certified home health agencies, long term home health care programs and AIDS home care programs, and for personal care services provided pursuant to section 365-a of the social services law, the commissioner of health shall apply zero trend factor projections attributable to the 2010 calendar year in accordance with paragraph (c) of subdivision 10 of section 2807-c of the public health law, provided, however, that such zero trend factor projections for such 2010 calendar year shall also be applied to rates of payment for personal care services provided in those local social services districts,

including New York city, whose rates of payment for such services are established by such local social services districts pursuant to a rate-setting exemption issued by the commissioner of health to such local social services districts in accordance with applicable regulations, and provided further, however, that for rates of payment for assisted living program services provided on and after April 1, 2010 through March 31, 2011, trend factor projections attributable to the 2010 calendar year shall be established at zero percent.

For services and expenses of the medical assistance program including hospital inpatient services.

Notwithstanding any inconsistent provision of law, rule or regulation and subject to the availability of federal financial participation, for the period July 1, 2010 through March 31, 2011, hospital inpatient rate adjustments shall be made in accordance with regulations which the commissioner of health shall promulgate in accordance with the provisions of subparagraph (v) of paragraph (b) of subdivision 35 of section 2807-c of the public health law and which shall be effective on and after July 1, 2010 that incorporate quality related measures pertaining to potentially preventable readmissions. Such regulations shall incorporate a risk adjusted comparison of the actual and expected number of potentially preventable readmissions in a given hospital with benchmarks established by the commissioner of health, provided, however, that the application of such regulations shall result in an aggregate reduction in medicaid payments of no less than $35,000,000 for the period July 1, 2010 through March 31, 2011, provided, however, that for the period July 1, 2010 through March 31, 2011 such rate adjustments shall not reflect the application of this section to behavioral health readmissions.

Notwithstanding any inconsistent provision of law, rule or regulation, hospital inpatient rate adjustments made in accordance with the methodology specified in subdivision 6 of section 2500-d of the public health law shall be reduced by up to $1,000,000 for the period April 1, 2010 through March 31, 2011; provided, however, if this act provides sufficient additional

funding to support such rate adjustments without the aggregate reductions, then the provisions of this section shall be deemed null and void as of March 31, 2010 4,435,794,000

For services and expenses of the medical assistance program including hospital outpatient and emergency room services 982,403,000

For services and expenses of the medical assistance program including clinic services 928,570,000

For services and expenses of the medical assistance program including nursing home services.

Notwithstanding any inconsistent provision of law or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, the commissioner of health shall not be required to revise certified rates of payment established pursuant to the public health law prior to April 1, 2011, based on consideration of rate appeals filed by residential health care facilities pursuant to section 2808 of the public health law or based upon adjustments to capital cost reimbursement as a result of approval by the commissioner of health of an application for construction under section 2802 of the public health law, in excess of aggregate amount of $80,000,000, provided, however, that in revising such rates within such fiscal limits the commissioner shall, in prioritizing such rate appeals include consideration of which facilities the commissioner determines are facing significant financial hardship, as well as such other considerations as the commissioner deems appropriate, and, further, the commissioner is authorized to enter into agreements with such facilities or any other facility to resolve multiple pending rate appeals based upon a negotiated aggregate amount and may offset such negotiated aggregate amounts against any amounts owed by the facility to the department of health, including, but not limited to, amounts owed pursuant to section 2807-d of the public health law, provided further, however, that such rate adjustment made pursuant to this section remain fully subject to approval by the director of the budget in accordance with the provisions of subdivision 2 of section 2807 of the public health law. Provided, however, if this act appropriates sufficient additional funds to support processing of residential health care facility

rate appeal adjustments as otherwise provided for in the public health law, than the provisions of this section shall be deemed null and void.

Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, a "reserved bed day" is defined as a day for which a governmental agency pays a residential health care facility to reserve a bed for a person eligible for medical assistance pursuant to title 11 of article 5 of the social services law while he or she is temporarily hospitalized or on leave of absence from the facility; provided further that for reserved bed days provided on behalf of persons 21 years of age or older: (i) payments for reserved bed days shall be made at 95 percent of the medicaid rate otherwise payable to the facility for services provided on behalf of such person; (ii) payment to a facility for reserved bed days provided on behalf of such person for temporary hospitalizations may not exceed 14 days in any 12 month period; and (iii) payment to a facility for reserved bed days provided on behalf of such person for non-hospitalization leaves of absence may not exceed 10 days in any 12 month period. Provided, however, if this act appropriates sufficient additional funds to permit payment for reserved bed days to be made at the full medicaid rate otherwise payable to the facility for services provided on behalf of such person, and to not restrict payments for reserved bed days to such 14 day and 10 day limitations, then the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010.

Notwithstanding any inconsistent provision of law, for the period April 1, 2010 through March 31, 2011, residential health care facility medicaid rates of payment shall not include reimbursement for the cost of prescription drugs. Such reimbursement shall be in accordance with otherwise applicable provisions of section 367-a of the social services law 3,796,384,000

For services and expenses of the medical assistance program including other long term care services.

Notwithstanding any inconsistent provision of law, rule or regulation to the contra-

ry, for the period April 1, 2010 through March 31, 2011, for purposes of operating the long term care assessment center demonstration program pursuant to section 367-w of the social services law, the department of health shall designate one or more long-term care assessment centers to be established in and together serve an entire county within the city of New York and shall designate a long term care assessment center to be established in another region consisting of one or more contiguous counties elsewhere in the state. Provided, however, if this act appropriates sufficient additional funds to support operation of the long term care assessment center demonstration program through one assessment center in a county within the city of New York, then the provisions of this appropriation shall be deemed null and void.

Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, continued provision of long term home health care program, AIDS home care program or certified home health agency services paid for by government funds shall be based upon a comprehensive assessment of the medical, social and environmental needs of the recipient of the services which shall be performed at least every 180 days by the provider of a long term home health care program, AIDS home care program or the certified home health agency providing services for the patient and the local department of social services; provided, however, if this act appropriates sufficient additional funds to require that such assessments be performed no less frequently than once every 120 days, then the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010 3,248,511,000

For services and expenses of the medical assistance program including managed care services 4,806,689,000

For services and expenses of the medical assistance program including pharmacy services.

Notwithstanding any law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, the commissioner of health shall provide five days public notice on the department's website

of any recommendations developed by the pharmacy and therapeutics committee regarding the preferred drug program; provided however that, if this act appropriates sufficient additional funds to permit the commissioner to provide thirty days public notice on the department's website of any such recommendations, the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010 2,525,100,000

For services and expenses of the medical assistance program including transportation services.

Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, the commissioner of health is authorized to assume responsibility from a local social services official for the provision and reimbursement of Medicaid transportation costs under section 365-h of the social services law. Such services, whether managed by the local social services official or the commissioner of health, shall be provided in a safe, timely, and reliable manner by providers that comply with state and local regulatory requirements, and shall meet consumer satisfaction criteria approved by the commissioner of health. If the commissioner elects to assume such responsibility, the commissioner shall notify the local social services official in writing as to the election, the date upon which the election shall be effective and such information as to transition of responsibilities as the commissioner deems prudent. The commissioner is authorized to contract with a transportation manager or managers to manage transportation services in any local social services district. Any transportation manager or managers selected by the commissioner to manage transportation services shall have proven experience in coordinating transportation services in a geographic and demographic area similar to the area in New York state within which the contractor would manage the provision of such services. Such a contract or contracts may include, responsibility for: review, approval and processing of transportation orders; management of the appropriate level of transportation based on documented patient medical need; and develop-

ment of new technologies leading to efficient transportation services. If the commissioner elects to assume such responsibility from a local social services district the commissioner shall examine and, if appropriate, adopt quality assurance measures that may include, but are not limited to, global positioning tracking system reporting requirements and service verification mechanisms. Any and all reimbursement rates developed by transportation managers under this paragraph shall be subject to the review and approval of the commissioner. Notwithstanding any inconsistent provision of sections 112 and 163 of the state finance law, or section 142 of the economic development law, or any other law, the commissioner is authorized to enter into a contract or contracts without a competitive bid or request for proposal process, provided, however, that the department shall post on its website, for a period of no less than 30 days: (i) a description of the proposed services to be provided pursuant to the contract or contracts; (ii) the criteria for selection of a contractor or contractors; (iii) the period of time during which a prospective contractor may seek selection, which shall be no less than 30 days after such information is first posted on the website; (iv) and the manner by which a prospective contractor may seek such selection, which may include submission by electronic means; and provided, further, that all reasonable and responsive submissions that are received from prospective contractors in a timely fashion shall be reviewed by the commissioner; and provided, further, that the commissioner shall select such contractor or contractors that, in his or her discretion, are best suited to serve the purposes of this appropriation. Provided, however, if this act appropriates sufficient additional funds to permit local social services officials to maintain responsibility for management of Medicaid transportation services without assumption of such responsibility by the commissioner of health, then the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010 223,287,000

For services and expenses of the medical

assistance program including dental services 150,987,000

For services and expenses of the medical assistance program including noninstitutional and other spending.

Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011: (i) any utilization controls on occupational therapy or physical therapy services under the Medicaid program, including, but not limited to, prior approval of services, utilization thresholds or other limitations imposed on such therapy services in relation to a chronic condition in clinics certified under article 28 of the public health law or article 16 of the mental hygiene law shall be developed by the department of health in concurrence with the office of mental retardation and developmental disabilities; (ii) such utilization controls shall be in accord with nationally recognized professional standards and, in the event that nationally recognized standards do not exist, such thresholds shall be based upon reasonably recognized professional standards of those with a specific expertise in treating individuals served by clinics certified under article 28 of the public health law or article 16 of the mental hygiene law; and (iii) prior approval by the department of health of a physical therapy evaluation or an occupational therapy evaluation by a qualified practitioner practicing within the scope of such practitioner's licensure shall not be required; provided that the department of health may require prior approval for treatment as recommended by such an evaluation and, in the event that prior approval is required, and the department of health fails to make a determination within eight days of presentation of a treatment request for physical or occupational therapy services, the department of health shall automatically approve four therapy visits; and provided, further, that if, upon completion of such four therapy visits, the department has not yet rendered a determination on the request for physical or occupational therapy services, the department shall automatically approve an additional four therapy visits and that such subsequent automatic approval shall be issued in the same

manner until such time as the department issues a determination, but in no event shall such approvals exceed the number of services or the period of time recommended by the evaluation; and provided further that, in the case of any denial of a prior approval request for physical therapy or occupational therapy, the department of health shall provide a reasonable opportunity for the qualified practitioner to provide his or her assessment of the beneficiary's physical and functional status as documented in a treatment plan with reasonable and obtainable goals; and provided further that, if the qualified practitioner provides documentation that is in accord with reasonably recognized professional standards, the recommended treatment plan shall be final, and the prior approval request shall be approved. Provided, however, if this act appropriates sufficient additional funds to permit payment under the Medicaid program for occupational therapy and physical therapy without the utilization control and prior approval features described in this appropriation, then the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010.

Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, for the period April 1, 2010 through March 31, 2011, moneys paid by an applicant or recipient of supplemental security income benefits under section 209 of the social services law or of medical assistance under section 366 of such law, to a funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation, under or in connection with an agreement, or any option to enter into an agreement, for the sale of merchandise to be used in connection with a funeral or burial, or for the furnishing of personal services of a funeral director or undertaker, wherein the merchandise is not to be actually physically delivered or the personal services are not to be rendered until the occurrence of the death of the person for whose funeral or burial such merchandise or services are to be furnished, shall be placed into an irrevocable trust if the person for whose funeral or burial such merchandise or services are to be furnished is a family

member of such applicant and recipient. Under the terms of such an irrevocable trust, such applicant or recipient (and after the death of such applicant or recipient, the family member) shall have the right to select any funeral firm, funeral director, undertaker, cemetery or any other person, firm or corporation to whom such payment is made and to change such selection any time to any type of funeral or any funeral firm, funeral director, cemetery or any other person, firm or corporation to whom such payment is made, located in the state of New York or any other state. Any funds remaining in such an irrevocable trust after the payment of all funeral expenses must be paid over to the social services official responsible for arranging for burials under section 141 of the social services law in the local government subdivision where the decedent resided. Any such agreement, and any promotional literature prepared by a funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation for prearranged funeral and burial services must contain language disclosing the irrevocable nature of burial trusts established for a family member by an applicant or recipient of supplemental security income benefits or medical assistance. Provided, however, if this act appropriates sufficient additional funds to permit such agreements purchased for family members by applicants or recipients of supplemental security income benefits or medical assistance to be revocable, then the provisions of this paragraph shall not apply and shall be considered null and void as of March 31, 2010 4,300,376,000

Notwithstanding any inconsistent provision of section 112 or 163 of the state finance law or any other contrary provision of the state finance law or any other contrary provision of law, the commissioner of health may, without a competitive bid or request for proposal process, enter into contracts with one or more certified public accounting firms for the purpose of conducting audits of disproportionate share hospital payments made by the state of New York to general hospitals and for the purpose of conducting audits of hospital cost reports as submitted to the state of New York in accordance with article 28

of the public health law. Notwithstanding any inconsistent provisions of law, subject to the approval of the director of the budget, up to the amount appropriated herein 2,300,000

For services and expenses of the medical assistance program including medical services provided at state facilities operated by the office of mental health, the office of mental retardation and developmental disabilities and the office of alcoholism and substance abuse services 3,550,000,000

For services and expenses of the medical assistance program including hospital inpatient, hospital outpatient and emergency room, clinic, nursing home, other long term care, managed care, pharmacy, transportation, dental, non-institutional and other spending, medical services provided at state facilities operated by the office of mental health, the office of mental retardation and developmental disabilities and the office of alcoholism and substance abuse services and for any other medical assistance services resulting from an increase in the federal medical assistance percentage pursuant to the American Recovery and Reinvestment Act. Funds appropriated herein shall be subject to all applicable reporting and accountability requirements contained in such act ... 5,667,000,000

Program account subtotal 34,617,401,000

Special Revenue Funds - Other / Aid to Localities
HCRA Resources Fund - 061
Medical Assistance Account

For the purpose of making payments, the money hereby appropriated is available for payment of aid heretofore accrued or hereafter accrued, to providers of medical care pursuant to section 367-b of the social services law, and for payment of state aid to municipalities and the federal government where payment systems through fiscal intermediaries are not operational, to reimburse such providers for costs attributable to the provision of care to patients eligible for medical assistance.

For services and expenses related to the medical assistance program 130,100,000

For services and expenses of the medical

assistance program related to the treatment of breast and cervical cancer 2,100,000
For services and expenses of the medical assistance program related to primary care case management. All or a portion of this appropriation may be transferred to state operations appropriations 2,000,000
For services and expenses of the medical assistance program related to disabled persons 23,500,000
For services and expenses of the medical assistance program related to physician services 85,200,000
For services and expenses of the medical assistance program related, but not limited to, pharmacy, inpatient, and nursing home services 1,475,081,000
For services and expenses of the medical assistance program related to the city of New York 124,700,000
For services and expenses of the medical assistance program related to providing distributions for supplemental medical insurance for medicare part B premiums, physician services, outpatient services, medical equipment, supplies and other health services 68,000,000
For services and expenses of the medical assistance program related to the family health plus program 590,900,000
For services and expenses of the medical assistance program related to providing financial assistance to residential health care facilities 15,000,000
For services and expenses of the medical assistance program related to free-standing diagnostic and treatment center rate increases for recruitment and retention of health care workers 900,000
For services and expenses of the medical assistance program related to supporting workforce recruitment and retention of personal care services or any worker with direct patient care responsibility for local social service districts which include a city with a population of over one million persons 136,000,000
For services and expenses of the medical assistance program related to supporting workforce recruitment and retention of personal care services for local social service districts that do not include a city with a population of over one million persons 11,200,000
For services and expenses of the medical assistance program related to supporting

rate increases for certified home health agencies, long term home health care programs, AIDS home care programs, hospice programs, managed long term care plans and approved managed long term care operating demonstrations for recruitment and retention of health care workers 50,000,000

Program account subtotal 2,714,681,000

Special Revenue Funds - Other / Aid to Localities
HCRA Resources Fund - 061
Indigent Care Account

For the purpose of making payments to providers of medical care pursuant to section 367-b of the social services law, and for payment of state aid to municipalities where payment systems through fiscal intermediaries are not operational, to reimburse such providers for costs attributable to the provision of care to patients eligible for medical assistance. Payments from this appropriation to general hospitals related to indigent care pursuant to article 28 of the public health law respectively, when combined with federal funds for services and expenses for the medical assistance program pursuant to title XIX of the federal social security act or its successor program, shall equal the amount of the funds received related to health care reform act allowances and surcharges pursuant to article 28 of the public health law and deposited to this account less any such amounts withheld pursuant to subdivision 21 of section 2807-c of the public health law.
Notwithstanding any contrary provision of law and subject to the availability of federal financial participation, for the period July 1, 2010 through December 31, 2010, distributions pursuant to sections 2807-k and 2807-w of the public health law shall reflect an aggregate reduction of sixty-nine million four hundred thousand dollars, based on the proportions of each hospital's indigent care allocations to the total allocations of all hospitals' indigent care allocations prior to application of this reduction, provided, however, that such reductions shall not be applied to distributions to major public hospitals, including major public hospi-

tals operated by public benefit corporations, and shall also not be applied to distributions made pursuant to subparagraphs (ii), (iii) or (iv) of paragraph (b) of subdivision 5-b of section 2807-k of the public health law, and provided further, however, that payments made pursuant to this section shall not be included as gross revenue for purposes under paragraph (d) of subdivision 18 of section 2807-c of the public health law and, further, shall not be included as gross receipts for purposes under paragraph (a) of subdivision 3 of section 2807-d of the public health law. Provided, however, if this act appropriates sufficient additional funding to support indigent care payments to general hospitals as otherwise provided for in sections 2807-k and 2807-w of the public health law then the provisions of this section shall be deemed null and void as of June 30, 2010. Notwithstanding any inconsistent provision of subdivision 35 of section 2807-c of the public health law or any other contrary provision of law and subject to the availability of federal financial participation, for the period July 1, 2010 through March 31, 2011 the commissioner shall make additional inpatient hospital payments up to the aggregate upper payment limit for inpatient hospital services after all other medical assistance payments, but not to exceed two hundred thirty-five million five hundred thousand dollars for the period July 1, 2010 through March 31, 2011 to general hospitals, other than major public general hospitals, providing emergency room services and including safety net hospitals, which shall, for the purpose of this paragraph, be defined as having either: a Medicaid share of total inpatient hospital discharges of at least thirty-five percent, including both fee-for-service and managed care discharges for acute and exempt services; or a Medicaid share of total discharges of at least thirty percent, including both fee-for-service and managed care discharges for acute and exempt services, and also providing obstetrical services. Eligibility to receive such additional payments shall be based on data from the period two years prior to the rate year, as reported on the institutional cost report submitted to the

department of health as of October 1 of the prior rate year. Such payments shall be made as medical assistance payments for fee-for-service inpatient hospital services pursuant to title 11 of article 5 of the social services law for patients eligible for federal financial participation under title XIX of the federal social security act and in accordance with the following:

(1) Thirty percent of such payments shall be allocated to safety net hospitals based on each eligible hospital's proportionate share of all eligible safety net hospitals' Medicaid discharges for inpatient hospital services, including both Medicaid fee-for-service and managed care discharges for acute and exempt services, based on data from the period two years prior to the rate year, as reported on the institutional cost report submitted to the department of health as of October 1 of the prior rate year;

(2) Seventy percent of such payments shall be allocated to eligible general hospitals based on each such hospital's proportionate share of all eligible hospitals' Medicaid discharges for inpatient hospital services, including both Medicaid fee-for-service and managed care discharges for acute and exempt services, based on data from the period two years prior to the rate year, as reported on the institutional cost report submitted to the department of health as of October 1 of the prior rate year;

(3) No eligible general hospital's annual payment amount pursuant to this appropriation shall exceed the lower of the sum of the annual amounts due that hospital pursuant to sections 2807-k and 2807-w of the public health law; or the hospital's facility specific projected disproportionate share hospital payment ceiling established pursuant to federal law, provided, however, that payment amounts to eligible hospitals pursuant to subdivisions (1) and (2) of this appropriation in excess of the lower of such sum or payment ceiling shall be reallocated to eligible hospitals that do not have excess payment amounts. Such reallocations shall be proportional to each such hospital's aggregate payment amount pursuant to subdivisions (1) and (2) of this appropri-

ation to the total of all payment amounts for such eligible hospitals;

(4) Subject to the availability of federal financial participation and in conformance with all applicable federal statutes and regulations, payments made pursuant to this appropriation shall be made as upper payment limit payments and, further, such payments shall be made as aggregate monthly payments to eligible general hospitals and provided further, however, that payments made pursuant to this subdivision shall not in any event be available for periods after the last day of the calendar year during which enhanced federal medicaid assistance percentages (FMAP) payments to general hospitals in the state of New York pursuant to section five thousand one of the federal American Recovery and Reinvestment Act of 2009, or pursuant to an otherwise applicable federal law, cease to be available, provided, however, that the department will in conjunction with hospital representatives review the impact associated with the expiration of such funding availability no later then sixty days prior to such expiration;

(5) In the event that the commissioner of health determines that federal financial participation will not be available for aggregate payments made in accordance with subdivision (4) of this appropriation, payments pursuant to this appropriation shall be included as rate add-ons to medical assistance inpatient rates of payment established pursuant to subdivision 35 of section 2807-c of the public health law based on data from the period two years prior to the rate year, as reported on the institutional cost report submitted to the department of health as of October 1 of the prior rate year, provided, however, that if such payments are made as rate add-ons, the commissioner of health shall establish a procedure to reconcile payment amounts to reflect changes in medical assistance utilization from the period two years prior to the rate year and the actual rate year based on data as reported on each hospital's annual institutional cost report for the respective rate year, as submitted to the department of health as of October 1 of the year following the rate year;

(6) Notwithstanding any other law, rule or regulation to the contrary, projections of

each general hospital's disproportionate share limitations as computed by the commissioner of health pursuant to applicable regulations shall be adjusted to reflect any additional revenue received or anticipated to be received by each such general hospital pursuant to this appropriation;

(7) For each hospital receiving payments pursuant to subdivisions (1) through (5) of this appropriation, the commissioner of health shall reduce the sum of any amounts paid pursuant to sections 2807-k and 2807-w of the public health law, as computed based on projected facility specific disproportionate share hospital ceilings, by an amount equal to the lower of such sum or each such hospital's payments pursuant to subdivisions (1) through (5) of this appropriation, provided, however, that any additional aggregate reductions enacted in a chapter of the laws of 2010 to the aggregate amounts payable pursuant to sections 2807-k and 2807-w of the public health law shall be applied subsequent to the adjustments otherwise provided for in this subdivision;

(8) Provided, however, if this act appropriates sufficient additional funding to support indigent care payments to general hospitals as otherwise provided for in sections 2807-k and 2807-w of the public health law then the provisions of this appropriation shall be deemed null and void as of June 30, 2010 875,400,000

Program account subtotal 875,400,000

Special Revenue Funds - Other / Aid to Localities
Miscellaneous Special Revenue Fund - 339
Medical Assistance Account

For the purpose of making payments to providers of medical care pursuant to section 367-b of the social services law, and for payment of state aid to municipalities and the federal government where payment systems through fiscal intermediaries are not operational, to reimburse such providers for costs attributable to the provision of care to patients eligible for medical assistance.

For services and expenses of the medical assistance program including nursing home, personal care, certified home health agency, long term home health care program and hospital services 749,800,000

Program account subtotal 749,800,000

S 12. The amount specified in this section, or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purpose specified, which amount shall be available for the state fiscal year beginning April 1, 2010.

DEPARTMENT OF LABOR

UNEMPLOYMENT INSURANCE BENEFIT PROGRAM 195,000,000

Enterprise Funds / State Operations
Unemployment Insurance Benefit Fund - 481

For payment of unemployment insurance benefits pursuant to article 18 of the labor law or as authorized by the Federal government through the disaster unemployment assistance program 195,000,000

S 13. Section 12 of chapter 106 of the laws of 2010, relating to making appropriations for the support of government, is amended to read as follows:

S 12. The amount specified in this section, or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purpose specified, which amount shall be available for the state fiscal year beginning April 1, 2010.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Federal Capital Projects Fund
Water Resources Purpose

The sum of five million six thousand dollars ($5,006,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated for contracts approved for purposes for which the legislature authorized the expenditures of money during the 2009-2010 fiscal year. An amount up to five million six thousand dollars ($5,006,000) shall be available for the payment by the state of federal capitalization grants for the water pollution control revolving fund, as funded by the American Recovery and Reinvestment Act of 2009 incurred in the ordinary course of business [during the period from] AFTER April 1 [through June 6], 2010 for contracts approved [during the period from] ON OR AFTER April 1 [through June 6], 2010, provided, however, that nothing contained herein shall be deemed to limit or restrict the power or authority of state departments or agencies to conduct their activ-

ities or operations in accordance with existing law, and further provided that nothing contained herein shall be deemed to supersede, nullify, or modify the provisions of section 40 of the state finance law prescribing when appropriations made for the 2009-2010 fiscal year shall have ceased to have force and effect. Funds appropriated herein shall be subject to all applicable reporting and accountability requirements contained in such act 5,006,000
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S 14. The several amounts specified in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be paid as hereinafter provided, to the respective public officers and for the several purposes specified, which amounts shall be available for the state fiscal year beginning April 1, 2010.

DEPARTMENT OF MENTAL HYGIENE

OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

COMMUNITY SERVICES PROGRAM 34,200,000

General Fund / Aid to Localities
Local Assistance Account - 001

For services and expenses related to the
provision of individual support services 2,000,000
For services and expenses related to the
provision of family support services to
the developmentally disabled 5,200,000

Program account subtotal 7,200,000

Special Revenue Funds - Other / Aid to Localities
Miscellaneous Special Revenue Fund - 339
Mental Hygiene Patient Income Account

For services and expenses related to the
provision of residential services to the
developmentally disabled 2,000,000

Program account subtotal 2,000,000

Special Revenue Funds - Other / Aid to Localities
Miscellaneous Special Revenue Fund - 339
OMRDD - Provider of Service Account

For services and expenses related to mental
retardation and developmental disabilities
services associated with the New York
state options for people through services
(NYS-OPTS) initiative, in accordance with

a programmatic and fiscal plan to be approved by the director of the budget.
Notwithstanding any provision of law to the contrary, the director of the budget is authorized to make suballocations from this appropriation to the department of health medical assistance program.
Notwithstanding any other provision of law, the money hereby appropriated may be transferred to state operations and/or any appropriation of the office of mental retardation and developmental disabilities, with the approval of the director of the budget who shall file such approval with the department of audit and control and copies thereof with the chairman of the senate finance committee and the chairman of the assembly ways and means committee.
Notwithstanding any provision of law to the contrary, the moneys hereby appropriated, or so much thereof as may be necessary, are to be available for the purposes herein specified for obligations heretofore accrued or hereafter to accrue 25,000,000

Program account subtotal 25,000,000

S 15. The amount specified in this section, or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purpose specified, which amount shall be available for the state fiscal year beginning April 1, 2010.

EDUCATION DEPARTMENT

ELEMENTARY, MIDDLE, SECONDARY AND CONTINUING EDUCATION PROGRAM 491,300,000

General Fund / Aid to Localities
Local Assistance Account - 001

The sum of four hundred ninety-one million three hundred thousand dollars ($491,300,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated to the state education department out of any moneys in the general fund to the credit of the local assistance account not otherwise appropriated. The comptroller is hereby authorized and directed to utilize this appropriation for the purpose of making mandated payments for the state fiscal year beginning April 1, 2010 for the 2009-2010 school year for general support for public schools, pursuant to section 3609-b of the education law. Notwithstanding any other provision of law to the contrary, in the event the director of the budget determines that there are insufficient state funds to make all payments calculated by the commissioner of

education pursuant to section 3609-b of the education law, the commissioner shall make payments on a prorated basis amongst all school districts scheduled to receive an unpaid balance of a payment pursuant to such provisions based on a plan approved by the director of the budget. Notwithstanding any provision of law to the contrary, all moneys paid pursuant to section 3609-b of the education law shall be due and payable on or before June 30, 2010 within amounts appropriated therefor 491,300,000

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S 16. The amount specified in this section, or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the respective public officers and for the purpose specified, which amount shall be available for the state fiscal year beginning April 1, 2010.

DEPARTMENT OF AGRICULTURE AND MARKETS

AGRICULTURAL BUSINESS SERVICES PROGRAM 1,631,000

General Fund / Aid to Localities
Local Assistance Account - 001

The sum of one million six hundred thirty-one thousand dollars ($1,631,000), or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated for a contract approved for purposes for which the legislature authorized the expenditures of money during the 2009-2010 fiscal year. An amount up to one million six hundred thirty-one thousand dollars shall be available for payment to the New York federation of growers and processors agribusiness child development program for liabilities incurred in the ordinary course of business during the period from April 1 through June 30, 2010 for a contract approved during the period April 1 through June 30, 2010 1,631,000

Program account subtotal 1,631,000

S 17. No expenditure may be made from any appropriation in this act, until a certificate of approval has been issued by the director of the budget and a copy of such certificate shall have been filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee provided, however, that any expenditures from any appropriation in this act made by the legislature or judiciary shall not require such certificate.

S 18. All expenditures and disbursements made against the appropriations in this act shall, upon final action by the legislature on appro-

priation bills submitted by the governor pursuant to article VII of the state constitution for the support of government for the state fiscal year beginning April 1, 2010, be transferred by the comptroller as expenditures and disbursements to such appropriations for all state departments, agencies, the legislature and the judiciary, as applicable, in amounts equal to the amounts charged against the appropriations in this act for each such department, agency, the legislature and the judiciary.

S 19. 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.

S 20. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010; provided, however, that upon the transfer of expenditures and disbursements by the comptroller as provided in section eighteen of this act, the appropriations made by this act and subject to such section shall be deemed repealed.