

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

(PREFILED)

January 7, 2009

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend chapter 56 of the laws of 2008 amending the general municipal law relating to reports on the financial condition of municipalities and to provide aid and incentives to the cities of Rochester, Buffalo, Lackawanna, Long Beach, Syracuse, White Plains, Yonkers and Rensselaer, in relation to aid and incentives for municipalities (Part A); to amend the state finance law, in relation to permitting certain public authorities to issue PIT Revenue Bonds for any authorized purpose, within existing public authorities control board approval requirements; to amend chapter 57 of the laws of 2008, relating to providing for the administration of certain funds and accounts related to the 2008-2009 budget, in relation to authorizing the state comptroller to transfer certain monies to the general fund, authorizing the state comptroller to deposit certain reimbursements to the credit of any capital projects fund, and directing the dormitory authority of the state of New York to transfer certain monies to the general fund; to repeal subdivision (a) of section 1 of Part P of chapter 57 of the laws of 2007 relating to providing funding for certain community projects; and providing for the repeal of certain provisions upon expiration thereof (Part B); to amend part NN of chapter 57 of the laws of 2008 relating to authorizing the New York state mortgage agency to transfer certain moneys and to amend the private housing finance law in relation to transferring undisbursed mortgage insurance fund reserves to the general fund and increasing the bond issuance cap for the division of housing and community renewal (Part C); to amend the insurance law, in relation to shifting the costs related to the implementation of chapter 748 of the laws of 2006; and to amend chapter 748 of the laws of 2006 amending the insurance law relating to enacting "Timothy's law", in relation to the effectiveness of such chapter (Part D); to amend the mental hygiene law, in relation

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

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to unified services and to repeal certain provisions of such law relating thereto (Part E); to amend chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to adjustments to certain rates and the time periods for the effectiveness thereof (Part F); to amend the public health law, in relation to the preferred drug program; to amend the social services law and the elder law, in relation to reimbursement to participating provider pharmacies; to amend the public health law, in relation to reinstating certain hospital assessments; to amend the public health law, in relation to reducing non-public hospital worker recruitment and retention grants; to amend chapter 58 of the laws of 2008, amending the social services law and the public health law relating to adjustments of rates, in relation to hospital reimbursements and in relation to rates of payment to nursing homes, personal care providers, certified home health agencies (CHHAs), and long term home health care programs (LTHHCPs); to amend the public health law, in relation to delaying nursing home rebasing; to amend the public health law, in relation to achieving savings in relation to nursing home, home care and personal care rates; to amend the public health law, in relation to CHHA and LTHHCP administrative efficiencies; to amend the public health law, in relation to the Health Care Reform Act (HCRA) covered lives assessment; to amend the public health law and chapter 703 of the laws of 1988, relating to enacting the expanded health care coverage act of nineteen hundred eighty-eight and amending the insurance law and other laws relating to expanded health care and catastrophic health care coverage, in relation to HCRA funding for public hospital and public nursing home recruitment and retention grants, non-public hospital grants, and the regional pilot program individual subsidy; to amend the public health law, in relation to breast cancer, cancer services, poison control and infertility; to amend the public health law, in relation to reducing funding for the graduate medical education professional education pool; to amend the public health law, in relation to worker retraining funding; to amend the public health law, in relation to increasing HCRA surcharges on hospitals and clinics; to amend the social services law, in relation to emergency medical transportation service supplemental payments; to amend the public health law, in relation to reducing inpatient medical assistance rates of payment for non-public residential healthcare facilities; to amend the social services law, in relation to transitional supplemental payments; to amend the public health law, in relation to medical assistance rates of payment; to amend the social services law, in relation to exempting persons receiving certain care from the treatment of income and resources provisions; to amend chapter 58 of the laws of 2007 amending the social services law and the public health law relating to adjustments of rates, in relation to the effectiveness thereof (Part G); relating to the transfer of funds from the banking department account; to amend the banking law, in relation to expenses of the banking department (Part H); relating to the transfer of funds from the insurance department account (Part I); to amend the executive law, in relation to authorizing the transfer of money (Part J); and to amend the workers' compensation law, in relation to disability payments (Part K)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement saving adjustments to the state fiscal
3 plan. Each component is wholly contained within a Part identified as
4 Parts A through K. The effective date for each particular provision
5 contained within such Part is set forth in the last section of such
6 Part. Any provision in any section contained within a Part, including
7 the effective date of the Part, which makes a reference to a section "of
8 this act", when used in connection with that particular component, shall
9 be deemed to mean and refer to the corresponding section of the Part in
10 which it is found. Section three of this act sets forth the general
11 effective date of this act.

12 PART A

13 Section 1. Section 11 of part O of chapter 56 of the laws of 2008
14 amending the general municipal law relating to reports on the financial
15 condition of municipalities and to provide aid and incentives to the
16 cities of Rochester, Buffalo, Lackawanna, Long Beach, Syracuse, White
17 Plains, Yonkers and Rensselaer, is amended to read as follows:

18 S 11. 1. Notwithstanding any other law to the contrary, for the state
19 fiscal year beginning April 1, 2009, and in each state fiscal year ther-
20 eafter, [twenty] TWENTY-ONE million SIX HUNDRED THOUSAND dollars of aid
21 and incentives for municipalities otherwise due and payable to the city
22 of Rochester on or before March 31 shall be paid on or before June 30 in
23 such fiscal year upon written request by the chief elected official of
24 such city to the director of the budget, provided such request is made
25 no later than April 1, 2009.

26 2. Notwithstanding any other law to the contrary, for the state fiscal
27 year beginning April 1, 2009, and in each state fiscal year thereafter,
28 [ten] ELEVEN million THREE HUNDRED SIXTY-TWO THOUSAND AND TWELVE dollars
29 of aid and incentives for municipalities otherwise due and payable to
30 the city of Buffalo on or before March 31 shall be paid on or before
31 June 30 in such fiscal year upon written request by the chief elected
32 official of such city to the director of the budget, provided such
33 request is made no later than April 1, 2009.

34 3. Notwithstanding any other law to the contrary, for the state fiscal
35 year beginning April 1, 2009, and in each state fiscal year thereafter,
36 one million dollars of aid and incentives for municipalities otherwise
37 due and payable to the city of Lackawanna on or before March 31 shall be
38 paid on or before June 30 in such fiscal year upon written request by
39 the chief elected official of such city to the director of the budget,
40 provided such request is made no later than April 1, 2009.

41 4. Notwithstanding any other law to the contrary, for the state
42 fiscal year beginning April 1, 2009, and in each state fiscal year ther-
43 eafter, four hundred thousand dollars of aid and incentives for munici-
44 palities otherwise due and payable to the city of Long Beach on or
45 before March 31 shall be paid on or before June 30 in such fiscal year
46 upon written request by the chief elected official of such city to the
47 director of the budget, provided such request is made no later than
48 April 1, 2009.

49 5. Notwithstanding any other law to the contrary, for the state fiscal
50 year beginning April 1, 2009, and in each state fiscal year thereafter,
51 five million SIX HUNDRED FIVE THOUSAND AND TWENTY-TWO dollars of aid and
52 incentives for municipalities otherwise due and payable to the city of
53 Syracuse on or before March 31 shall be paid on or before June 30 in
54 such fiscal year upon written request by the chief elected official of

1 such city to the director of the budget, provided such request is made
2 no later than April 1, 2009.

3 6. Notwithstanding any other law to the contrary, for the state fiscal
4 year beginning April 1, 2009, and in each state fiscal year thereafter,
5 one million dollars of aid and incentives for municipalities otherwise
6 due and payable to the city of White Plains on or before March 31 shall
7 be paid on or before June 30 in such fiscal year upon written request by
8 the chief elected official of such city to the director of the budget,
9 provided such request is made no later than April 1, 2009.

10 7. Notwithstanding any other law to the contrary, for the state fiscal
11 year beginning April 1, 2009, and in each state fiscal year thereafter,
12 twenty million NINE HUNDRED FORTY-FIVE THOUSAND, EIGHT HUNDRED
13 FIFTY-EIGHT dollars of aid and incentives for municipalities otherwise
14 due and payable to the city of Yonkers on or before March 31 shall be
15 paid on or before June 30 in such fiscal year upon written request by
16 the chief elected official of such city to the director of the budget,
17 provided such request is made no later than April 1, 2009.

18 8. Notwithstanding any other law to the contrary, for the state fiscal
19 year beginning April 1, 2009, and in each state fiscal year thereafter,
20 one hundred twenty-five thousand dollars of aid and incentives for muni-
21 cipalities otherwise due and payable to the city of Rensselaer on or
22 before March 31 shall be paid on or before June 30 in such fiscal year
23 upon written request by the chief elected official of such city to the
24 director of the budget, provided such request is made no later than
25 April 1, 2009.

26 S 2. This act shall take effect immediately.

27

PART B

28 Section 1. Subdivision 3 of section 3 of part RR of chapter 57 of the
29 laws of 2008 entitled "Environmental Affairs", relating to providing for
30 the administration of certain funds and accounts related to the
31 2008-2009 budget, is amended to read as follows:

32 3. [\$125,000,000] \$200,000,000 from the environmental protection fund
33 (078), environmental protection transfer account (01), to the general
34 fund.

35 S 2. Subdivision 7 of section 3 of part RR of chapter 57 of the laws
36 of 2008 entitled "Family Assistance", relating to providing for the
37 administration of certain funds and accounts related to the 2008-2009
38 budget, is amended to read as follows:

39 7. [\$36,000,000] \$136,000,000 from any of the office of temporary and
40 disability assistance accounts within the federal health and human
41 services fund (265) to the general fund.

42 S 3. Section 11-a of part RR of chapter 57 of the laws of 2008, relat-
43 ing to providing for the administration of certain funds and accounts
44 related to the 2008-2009 budget, is amended to read as follows:

45 S 11-a. Notwithstanding any provision of law to the contrary, the
46 power authority of the state of New York, as deemed feasible and advis-
47 able by its trustees, is authorized to make contributions to the state
48 treasury to the credit of the general fund as follows: for the fiscal
49 year commencing April 1, 2008, a total of [\$60,000,000] \$361,000,000,
50 not less than \$50,000,000 of which will be paid within thirty days of
51 the enactment of the state budget for such fiscal year, NOT LESS THAN
52 \$119,000,000 SHALL BE PAID BY JANUARY 30, 2009 AND \$182,000,000 SHALL BE
53 PAID BY MARCH 27, 2009; for the fiscal year commencing April 1, 2009, a
54 total of [\$35,000,000] \$210,000,000, not less than [\$25,000,000]

1 \$103,000,000 of which will be paid within [thirty] ONE HUNDRED EIGHTY
2 days of the enactment of the state budget for such fiscal year[; and for
3 the fiscal year commencing April 1, 2010, a total of \$35,000,000, not
4 less than \$25,000,000 of which will be paid within thirty days of the
5 enactment of the state budget for such fiscal year] AND \$107,000,000
6 SHALL BE PAID PRIOR TO MARCH 26, 2010.

7 S 4. Subdivision 8 of section 68-b of the state finance law, as added
8 by section 2 of part I of chapter 383 of the laws of 2001, is amended to
9 read as follows:

10 8. Revenue bonds may only be issued for authorized purposes, as
11 defined in section sixty-eight-a of this article. Notwithstanding the
12 foregoing, any authorized issuer may issue revenue bonds [in place of
13 (a) housing program bonds or notes as authorized by section forty-sev-
14 en-e of the private housing finance law, (b) bonds to finance the state
15 match for federal capitalization grants for the purpose of any state
16 revolving fund as authorized by paragraph (a) of subdivision one of
17 section twelve hundred ninety of the public authorities law and (c)
18 certificates of participation as authorized by article five-a of this
19 chapter] FOR ANY AUTHORIZED PURPOSE OF ANY OTHER SUCH AUTHORIZED ISSUER;
20 PROVIDED, HOWEVER, THAT IF AN AUTHORIZED ISSUER ISSUES AN AMOUNT OF
21 REVENUE BONDS FOR AN AUTHORIZED PURPOSE OF ANY OTHER AUTHORIZED ISSUER
22 WHICH WOULD OTHERWISE REQUIRE THE APPROVAL OF THE PUBLIC AUTHORITIES
23 CONTROL BOARD, SUCH AMOUNT OF REVENUE BONDS SHALL BE SUBJECT TO THE
24 APPROVAL OF THE PUBLIC AUTHORITIES CONTROL BOARD PURSUANT TO THE
25 PROVISIONS OF SECTION FIFTY-ONE OF THE PUBLIC AUTHORITIES LAW. The
26 authorized issuers shall not issue any revenue bonds in an amount in
27 excess of statutory authorizations for such authorized purposes.
28 Authorizations for such authorized purposes shall be reduced in an
29 amount equal to the amount of revenue bonds issued for such authorized
30 purposes under this article. Such reduction shall not be made in
31 relation to revenue bonds issued to fund reserve funds, if any, and
32 costs of issuance, if these items are not counted under existing author-
33 izations, nor shall revenue bonds issued to refund bonds issued under
34 existing authorizations reduce the amount of such authorizations.

35 S 5. Part RR of chapter 57 of the laws of 2008, relating to providing
36 for the administration of certain funds and accounts related to the
37 2008-2009 budget, is amended by adding a new section 27-a to read as
38 follows:

39 S 27-A. FOR PURPOSES OF SECTIONS EIGHTEEN THROUGH TWENTY-SEVEN OF THIS
40 PART, THE STATE COMPTROLLER IS ALSO HEREBY AUTHORIZED AND DIRECTED TO
41 DEPOSIT TO THE CREDIT OF ANY CAPITAL PROJECTS FUND, REIMBURSEMENT FROM
42 THE PROCEEDS OF BONDS AND NOTES ISSUED BY ANY AUTHORIZED ISSUER, AS
43 DEFINED BY SECTION 68-A OF THE STATE FINANCE LAW, IN THE AMOUNTS AND FOR
44 THE PURPOSES LISTED IN SUCH SECTIONS.

45 S 6. Part RR of chapter 57 of the laws of 2008, relating to providing
46 for the administration of certain funds and accounts related to the
47 2008-2009 budget, is amended by adding a new section 50-a to read as
48 follows:

49 S 50-A. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, UPON THE
50 DIRECTION OF THE DIRECTOR OF THE BUDGET THE DORMITORY AUTHORITY OF THE
51 STATE OF NEW YORK IS DIRECTED TO TRANSFER \$6,500,000 FROM THE DORMITORY
52 AUTHORITY CORPORATE FIDUCIARY FUND TO THE STATE GENERAL FUND (003).

53 S 7. Subdivision (a) of section 1 of part P of chapter 57 of the laws
54 of 2007 relating to providing funding for certain community projects is
55 REPEALED.

56 S 8. This act shall take effect immediately; provided, however, that:

1 a. the amendments to section 3 of Part RR of chapter 57 of the laws of
2 2008 made by sections one and two of this act shall expire on the same
3 date as such section expires and shall be deemed repealed therewith; and
4 b. section 27-a of Part RR of chapter 57 of the laws of 2008, as added
5 by section five of this act, shall expire and be deemed repealed on the
6 same date and in the same manner as sections 1, 3, 4, 14 and 18 through
7 27 of Part RR of chapter 57 of the laws of 2008.

8 PART C

9 Section 1. Part NN of chapter 57 of the laws of 2008 relating to
10 authorizing the New York state mortgage agency to transfer certain
11 moneys, section 3 as amended by chapter 284 of the laws of 2008, is
12 amended to read as follows:

13 PART NN

14 Section 1. Notwithstanding any other provision of law, and provided
15 that the reserves in the project pool insurance-account of the mortgage
16 insurance fund created pursuant to section 2429-b of the public authori-
17 ties law are sufficient to attain and maintain the credit rating (as
18 determined by the agency) required to accomplish the purposes of such
19 account, the board of directors of the state of New York mortgage agen-
20 cy, shall, as soon as practicable but not later than July 1, 2008,
21 transfer a sum not to exceed one hundred million dollars from the
22 project pool insurance account of the mortgage insurance fund as
23 follows: a sum not to exceed fifty-four million dollars to the New York
24 state housing finance agency for its Mitchell Lama Rehabilitation and
25 Preservation Program and its All Affordable Program; a sum not to exceed
26 six million dollars to the Long Island Housing Partnership for its
27 Homeownership and Economic Stabilization for Long Island Program; a sum
28 not to exceed twenty-five million dollars to the New York state housing
29 trust fund corporation (the "corporation") for the provision of subprime
30 foreclosure prevention services as provided in section two of this act;
31 and a sum not to exceed fifteen million dollars to the corporation for
32 the greater Catskills flood remediation program as provided in section
33 three of this act.

34 S 2. Within the amounts transferred to the corporation pursuant to
35 section one of this act for subprime foreclosure prevention services,
36 the corporation shall, in consultation with the division of housing and
37 community renewal, the banking department and the office of court admin-
38 istration, develop and administer a subprime foreclosure prevention
39 services program which shall provide assistance related to foreclosure
40 prevention to homeowners who entered into subprime or unconventional
41 mortgages, including grants and aid to non-profit organizations to
42 provide counseling, mediation, legal representation, and negotiation on
43 behalf of borrowers facing default or foreclosure, training and support
44 for counselors, mediators, and lawyers regarding such assistance to
45 homeowners, and credit counseling. Such assistance shall only be offered
46 to borrowers who are natural persons who hold a subprime or unconven-
47 tional home loan that is secured by a mortgage or deed of trust on real
48 estate upon which there is located a structure or structures intended
49 principally for occupancy of from one to four families and which is
50 occupied by the borrower as the borrower's principal dwelling and is
51 located in this state. For purposes of this section, "subprime or uncon-
52 ventional mortgage" shall mean: for a first lien loan, one that has an

1 annual percentage rate of three or more percentage points above the
2 yield on treasury securities of comparable maturity measured as of the
3 fifteenth day of the month immediately preceding the month in which the
4 application for the loan is received by the lender; for a subordinate
5 lien loan, one that has an annual percentage rate of five or more
6 percentage points above the yield on treasury securities of comparable
7 maturity measured as of the fifteenth day of the month immediately
8 preceding the month in which the application for the loan is received by
9 the lender; or a mortgage that is a "nontraditional mortgage" as such
10 term is described in the "Interagency Guidance on Nontraditional Mort-
11 gage Product Risks" issued September 29, 2006, and published in 71
12 Federal Register, 58609, on October 4, 2006, as updated. The corporation
13 shall develop application procedures for non-profit agencies to use to
14 apply for funds to carry out the provisions of this section, criteria
15 for evaluating such applications, including criteria that would encour-
16 age collaborative applications by multiple non-profit agencies, and
17 criteria for use by the non-profits that receive assistance pursuant to
18 this section to rank applications for assistance from eligible homeown-
19 ers for the provisions of subprime foreclosure prevention services, and
20 which shall consider the need for assistance and opportunity to success-
21 fully restructure the applicable mortgage to allow the homeowner to
22 continue to occupy the home. The corporation, in consultation with the
23 division of housing and community renewal, the banking department, and
24 the office of court administration, shall submit a report to the gover-
25 nor, the speaker of the assembly, and the temporary president of the
26 senate on or before December 31, 2008, on the implementation of this
27 act. Such report shall include, but not be limited to, for each provider
28 receiving funds under this act, a description of such provider's
29 contract amount, the specific foreclosure prevention activities
30 performed by such provider, and the number of persons and households
31 served by each provider and the number of requests for assistance that
32 could not be granted. The report shall also include an analysis of mort-
33 gage defaults in the state, the causes of such defaults, the unmet needs
34 that exist in the state due to defaults on loans, foreclosures of homes,
35 rates of foreclosures, the need for direct assistance to homeowners, and
36 the ability of homeowners to successfully comply with mortgage terms or
37 negotiate changes in their mortgages in order to remain in their homes.

38 S 3. Within the amounts transferred to the corporation pursuant to
39 section one of this act for the greater Catskills flood remediation
40 program, the corporation shall provide funds to the counties of Broome,
41 Chenango, Delaware, Herkimer, Montgomery, Orange, Otsego, Schoharie,
42 Sullivan, Tioga and Ulster, upon application by a county and within the
43 amounts available for disbursement to such county, to enable the coun-
44 ties to purchase and demolish one or two family homes that have been
45 certified by the local building inspector and county emergency manage-
46 ment director, to the satisfaction of the corporation, as having been
47 subject to one or more incidents of flooding since April 1, 2004 and as
48 likely to be subject to a future flood incident that would cause
49 substantial damage thereto. Any application by a county for disbursement
50 of funds under this act shall demonstrate, to the satisfaction of the
51 corporation, that: (1) the home is occupied as the primary residence of
52 an owner with a family income of up to one hundred fifty percent of the
53 area median income as defined by the United States department of housing
54 and urban development, provided, however, that an otherwise eligible
55 home shall be eligible for purchase under this act if the current owner
56 can demonstrate that the home was occupied as the owner's primary resi-

1 dence prior to a flood event that rendered the home unsuitable for habi-
2 tation; (2) the current appraised value of the home does not exceed two
3 hundred fifty thousand dollars and the purchase price for the home will
4 not exceed the appraised value less the amount of any property casualty
5 insurance or disaster relief payments received by the owner as compen-
6 sation for damage incurred in a flood incident; (3) all recorded liens
7 or other encumbrances on the home will be released at closing; (4) the
8 county provides assurances that the home will be condemned and the prop-
9 erty will be dedicated and maintained in perpetuity for a use that is
10 compatible with open space, recreational, flood mitigation or wetlands
11 management practices; and (5) disbursements under this section shall be
12 limited to the costs of acquisition of eligible homes, including legal,
13 appraisal, recording and other transaction costs, and the costs of demo-
14 lition. In selecting homes for purchase pursuant to this act, each
15 county shall give preference to homes with a current appraised value of
16 less than one hundred fifty thousand dollars and to homes that have been
17 subject to two or more incidents of flooding since April 1, 2004. The
18 corporation shall establish policies and procedures consistent with this
19 section, which shall include county reporting requirements, and shall
20 report to the governor, the speaker of the assembly, the temporary pres-
21 ident of the senate and the director of the division of the budget on or
22 before December 31, 2008 regarding the implementation of this section.
23 Of the amounts transferred to the corporation pursuant to section one of
24 this act, the amounts disbursed to counties pursuant to this section
25 shall not exceed the following amounts: Broome, \$750,000; Chenango,
26 \$750,000; Delaware, \$2,000,000; Herkimer, \$750,000; Montgomery,
27 \$750,000; Orange, \$2,000,000; Otsego, \$750,000; Schoharie, \$750,000;
28 Sullivan, \$3,750,000; Tioga, \$750,000; and Ulster, \$2,000,000.

29 S 4. NOTWITHSTANDING SECTIONS ONE AND THREE OF THIS ACT, THE JANUARY
30 1, 2009 UNDISBURSED BALANCES OF THE MITCHELL-LAMA REHABILITATION AND
31 PRESERVATION PROGRAM AND THE ALL AFFORDABLE PROGRAM, THE HOMEOWNERSHIP
32 AND ECONOMIC STABILIZATION FOR LONG ISLAND PROGRAM, AND THE GREATER
33 CATSKILLS FLOOD REMEDIATION PROGRAM SHALL BE TRANSFERRED TO THE GENERAL
34 FUND NO LATER THAN MARCH 31, 2009.

35 S 5. This act shall take effect immediately.

36 S 2. Paragraph (a) of subdivision 2 of section 47-e of the private
37 housing finance law, as amended by section 47 of part RR of chapter 57
38 of the laws of 2008, is amended to read as follows:

39 (a) Subject to the provisions of chapter fifty-nine of the laws of two
40 thousand, in order to enhance and encourage the promotion of housing
41 programs and thereby achieve the stated purposes and objectives of such
42 housing programs, the agency shall have the power and is hereby author-
43 ized from time to time to issue negotiable housing program bonds and
44 notes in such principal amount as shall be necessary to provide suffi-
45 cient funds for the repayment of amounts disbursed (and not previously
46 reimbursed) pursuant to law or any prior year making capital appropri-
47 ations or reappropriations for the purposes of the housing program;
48 provided, however, that the agency may issue such bonds and notes in an
49 aggregate principal amount not exceeding two billion [two hundred nine-
50 ty-one] THREE HUNDRED TWENTY-TWO million nine hundred forty-one thousand
51 dollars, plus a principal amount of bonds issued to fund the debt
52 service reserve fund in accordance with the debt service reserve fund
53 requirement established by the agency and to fund any other reserves
54 that the agency reasonably deems necessary for the security or marketa-
55 bility of such bonds and to provide for the payment of fees and other
56 charges and expenses, including underwriters' discount, trustee and

1 rating agency fees, bond insurance, credit enhancement and liquidity
2 enhancement related to the issuance of such bonds and notes. No reserve
3 fund securing the housing program bonds shall be entitled or eligible to
4 receive state funds apportioned or appropriated to maintain or restore
5 such reserve fund at or to a particular level, except to the extent of
6 any deficiency resulting directly or indirectly from a failure of the
7 state to appropriate or pay the agreed amount under any of the contracts
8 provided for in subdivision four of this section.

9 S 3. This act shall take effect immediately and shall be deemed to
10 have been in full force and effect on and after January 1, 2009.

11 PART D

12 Section 1. Section 332 of the insurance law, subsection (a) as amended
13 by chapter 61 of the laws of 1989, is amended to read as follows:

14 S 332. Assessments to defray [operating] expenses of department. (a)
15 [The] FOR PURPOSES OF THIS SECTION, THE expenses of the department,
16 [excluding the expenses of the supervision of employee welfare funds]
17 SHALL INCLUDE ALL APPROPRIATIONS WHETHER ADMINISTERED BY THE DEPARTMENT
18 OR SUBALLOCATED TO ANOTHER STATE DEPARTMENT, BOARD, OR AGENCY, for any
19 fiscal year, including all direct and indirect costs, as approved by the
20 director of the budget [and audited by the comptroller], except as
21 otherwise provided by sections one hundred fifty-one and two hundred
22 twenty-eight of the workers' compensation law and by section sixty of
23 the volunteer firefighters' benefit law, shall be assessed by the super-
24 intendent pro rata upon all domestic insurers and all licensed United
25 States branches of alien insurers domiciled in this state within the
26 meaning of paragraph four of subsection (b) of section seven thousand
27 four hundred eight of this chapter, in proportion to the gross direct
28 premiums and other considerations, written or received by them in this
29 state during the calendar year ending December thirty-first immediately
30 preceding the end of the fiscal year for which the assessment is made
31 (less return premiums and considerations thereon) for policies or
32 contracts of insurance covering property or risks resident or located in
33 this state the issuance of which policies or contracts requires a
34 license from the superintendent; and the superintendent shall levy and
35 collect such assessments and pay the same into the state treasury,
36 subject to the provisions of section one hundred twenty-one of the state
37 finance law and subsection (b) hereof.

38 (b) For each fiscal year commencing on or after April first, nineteen
39 hundred eighty-three, a partial payment shall be made by each insurer
40 subject to this section in a sum equal to twenty-five per centum of the
41 annual expenses assessed upon it for the fiscal year as estimated by the
42 superintendent. Such payment shall be made on March tenth of the preced-
43 ing fiscal year and on June tenth, September tenth and December tenth of
44 each year, or at such other dates as the director of the budget may
45 prescribe. Provided, however, that the payment due March tenth, nineteen
46 hundred eighty-three for the fiscal year beginning April first, nineteen
47 hundred eighty-three shall not be required to be paid until June tenth,
48 nineteen hundred eighty-three. The balance of assessments for the fiscal
49 year shall be paid upon determination of the actual amount due in
50 accordance with the provisions of this section. Any overpayment of annu-
51 al assessment resulting from complying with the requirements of this
52 subsection shall be refunded or at the option of the assessed applied as
53 a credit against the assessment for the succeeding fiscal year. The
54 partial payment schedule provided for herein shall not be applicable to

1 any insurer whose annual assessment pursuant to this section for the
2 fiscal year is estimated to be less than one hundred dollars and such
3 insurers shall make a single annual payment on or before September thir-
4 tieth of the fiscal year.

5 S 2. Item (ii) of subparagraph (D) of paragraph 5 of subsection (l) of
6 section 3221 of the insurance law, as amended by chapter 502 of the laws
7 of 2007, is amended to read as follows:

8 (ii) The superintendent shall develop and implement a methodology to
9 fully cover the cost to any such group purchaser for providing the
10 coverage required in subparagraph (A) of this paragraph. Such methodol-
11 ogy shall be financed from funds [from the General Fund] that shall be
12 made available to the superintendent [for such purpose] IN ACCORDANCE
13 WITH THE PROVISIONS SET FORTH IN SECTION THREE HUNDRED THIRTY-TWO OF
14 THIS CHAPTER.

15 S 3. Subparagraph (B) of paragraph 4 of subsection (g) of section 4303
16 of the insurance law, as amended by chapter 502 of the laws of 2007, is
17 amended to read as follows:

18 (B) The superintendent shall develop and implement a methodology to
19 fully cover the cost to any such group contract holder for providing the
20 coverage required in paragraph one of this subsection. Such methodology
21 shall be financed from [moneys from the General Fund] FUNDS that shall
22 be made available to the superintendent [for such purpose] IN ACCORDANCE
23 WITH THE PROVISIONS SET FORTH IN SECTION THREE HUNDRED THIRTY-TWO OF
24 THIS CHAPTER.

25 S 4. Subparagraph (B) of paragraph 4 of subsection (h) of section 4303
26 of the insurance law, as amended by chapter 502 of the laws of 2007, is
27 amended to read as follows:

28 (B) The superintendent shall develop and implement a methodology to
29 fully cover the cost to any such group remittance group and group
30 contract holder for providing the coverage required in paragraph one of
31 this subsection. Such methodology shall be financed from [moneys from
32 the General Fund] FUNDS that shall be made available to the superinten-
33 dent [for such purpose] IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN
34 SECTION THREE HUNDRED THIRTY-TWO OF THIS CHAPTER.

35 S 5. Section 8 of chapter 748 of the laws of 2006 amending the insur-
36 ance law relating to enacting "Timothy's law" is amended to read as
37 follows:

38 S 8. This act shall take effect on the first of January next succeed-
39 ing the date on which it shall have become a law and shall expire and be
40 deemed repealed December 31, [2009] 2010; and the provisions of this act
41 shall apply to policies and contracts issued, renewed, modified, altered
42 or amended on or after such effective date.

43 S 6. This act shall take effect immediately; provided, however, that
44 the amendments to paragraph 5 of subsection (l) of section 3221 of the
45 insurance law made by section two of this act shall not affect the expi-
46 ration of such paragraph and shall expire and be deemed repealed there-
47 with; and provided further that the amendments to subsections (g) and
48 (h) of section 4303 of the insurance law made by sections three and four
49 of this act shall not affect the expiration of such subsections and
50 shall expire and be deemed repealed therewith.

51

PART E

52 Section 1. Paragraph 1 of subdivision (a) of section 9.60 of the
53 mental hygiene law, as amended by chapter 158 of the laws of 2005, is
54 amended to read as follows:

1 (1) "assisted outpatient treatment" shall mean categories of outpa-
2 tient services which have been ordered by the court pursuant to this
3 section. Such treatment shall include case management services or
4 assertive community treatment team services to provide care coordi-
5 nation, and may also include any of the following categories of
6 services: medication; periodic blood tests or urinalysis to determine
7 compliance with prescribed medications; individual or group therapy; day
8 or partial day programming activities; educational and vocational train-
9 ing or activities; alcohol or substance abuse treatment and counseling
10 and periodic tests for the presence of alcohol or illegal drugs for
11 persons with a history of alcohol or substance abuse; supervision of
12 living arrangements; and any other services within a local [or unified]
13 services plan developed pursuant to article forty-one of this chapter,
14 prescribed to treat the person's mental illness and to assist the person
15 in living and functioning in the community, or to attempt to prevent a
16 relapse or deterioration that may reasonably be predicted to result in
17 suicide or the need for hospitalization.

18 S 2. Paragraph 2 of subdivision (b) of section 31.27 of the mental
19 hygiene law, as added by chapter 723 of the laws of 1989, is amended to
20 read as follows:

21 (2) The commissioner of mental health shall require that each compre-
22 hensive psychiatric emergency program submit a plan. The plan must be
23 approved by the commissioner prior to the issuance of an operating
24 certificate pursuant to this article. Each plan shall include: (i) a
25 description of the program's catchment area; (ii) a description of the
26 program's psychiatric emergency services, including crisis intervention
27 services, crisis outreach services, crisis residence services, extended
28 observation beds, and triage and referral services, whether or not
29 provided directly or through agreement with other providers of services;
30 (iii) agreements or affiliations with hospitals, as defined in section
31 1.03 of this chapter, to receive and admit persons who require inpatient
32 psychiatric services; (iv) agreements or affiliations with general
33 hospitals to receive and admit persons who have been referred by the
34 comprehensive psychiatric emergency program and who require medical or
35 surgical care which cannot be provided by the comprehensive psychiatric
36 emergency program; (v) a description of local resources available to the
37 program to prevent unnecessary hospitalizations of persons, which shall
38 include agreements with local mental health, health, substance abuse,
39 alcoholism or alcohol abuse, mental retardation and developmental disa-
40 bilities, or social services agencies to provide appropriate services;
41 (vi) a description of the program's linkages with local police agencies,
42 emergency medical services, ambulance services, and other transportation
43 agencies; (vii) a description of local resources available to the
44 program to provide appropriate community mental health services upon
45 release or discharge, which shall include case management services and
46 agreements with state or local mental health and other human service
47 providers; (viii) written criteria and guidelines for the development of
48 appropriate discharge planning for persons in need of post emergency
49 treatment or services[,]; (ix) a statement indicating that the program
50 has been included in an approved local [or unified] services plan devel-
51 oped pursuant to article forty-one of this chapter for each local
52 government located within the program's catchment area; and (x) any
53 other information or agreements required by the commissioner.

54 S 3. Subdivision (d) of section 33.13 of the mental hygiene law, as
55 amended by chapter 408 of the laws of 1999, is amended to read as
56 follows:

1 (d) Nothing in this section shall prevent the electronic or other
2 exchange of information concerning patients or clients, including iden-
3 tification, between and among (i) facilities or others providing
4 services for such patients or clients pursuant to an approved local [or
5 unified] services plan, as defined in article forty-one of this chapter,
6 or pursuant to agreement with the department, and (ii) the department or
7 any of its licensed or operated facilities. Furthermore, subject to the
8 prior approval of the commissioner of mental health, hospital emergency
9 services licensed pursuant to article twenty-eight of the public health
10 law shall be authorized to exchange information concerning patients or
11 clients electronically or otherwise with other hospital emergency
12 services licensed pursuant to article twenty-eight of the public health
13 law and/or hospitals licensed or operated by the office of mental
14 health; provided that such exchange of information is consistent with
15 standards, developed by the commissioner of mental health, which are
16 designed to ensure confidentiality of such information. Additionally,
17 information so exchanged shall be kept confidential and any limitations
18 on the release of such information imposed on the party giving the
19 information shall apply to the party receiving the information.

20 S 4. Subdivision (d) of section 33.13 of the mental hygiene law, as
21 amended by chapter 912 of the laws of 1984, is amended to read as
22 follows:

23 (d) Nothing in this section shall prevent the exchange of information
24 concerning patients or clients, including identification, between (i)
25 facilities or others providing services for such patients or clients
26 pursuant to an approved local [or unified] services plan, as defined in
27 article forty-one, or pursuant to agreement with the department and (ii)
28 the department or any of its facilities. Information so exchanged shall
29 be kept confidential and any limitations on the release of such informa-
30 tion imposed on the party giving the information shall apply to the
31 party receiving the information.

32 S 5. The article heading of article 41 of the mental hygiene law, as
33 added by chapter 978 of the laws of 1977, is amended to read as follows:

34 LOCAL [AND UNIFIED] SERVICES

35 S 6. The second undesignated paragraph and closing paragraph of
36 section 41.01 of the mental hygiene law, as amended by chapter 978 of
37 the laws of 1977, are amended to read as follows:

38 [In order to further the development, for each community in this
39 state, of a unified system for the delivery of such services, this arti-
40 cle gives to a local governmental unit the opportunity to participate in
41 the state-local development of such services by means of a unified
42 services plan. Such a plan is designed to be a mechanism whereby the
43 department, department facilities, and local government can jointly plan
44 for and deliver unified services to meet the needs of the consumers of
45 such services. The unified services system will strengthen state and
46 local partnership in the determination of the need for and the allo-
47 cation of services and more easily provide for the most effective and
48 economical utilization of new and existing state, local governmental,
49 and private resources to provide services. A uniform ratio of state and
50 local government responsibility for financing services under a unified
51 services plan is established by this article to eliminate having the
52 types of services provided in a community be determined by the local
53 government's share of the cost of a particular program rather than the
54 needs of the community.

1 It] EFFECTIVE IMPLEMENTATION OF THIS ARTICLE requires the direction
2 and administration, by each local governmental unit, of a local compre-
3 hensive planning process for its geographic area in which all providers
4 of services shall participate and cooperate in the provision of all
5 necessary information. It also initiates a planning effort involving the
6 state, local governments and other providers of service for the purpose
7 of promoting continuity of care through the development of integrated
8 systems of care and treatment for the mentally ill, mentally retarded
9 and developmentally disabled, and for those suffering from the diseases
10 of alcoholism and substance abuse.

11 S 7. Subdivisions 4 and 14 of section 41.03 of the mental hygiene law
12 are REPEALED, and subdivisions 5, 6, 7, 8, 9, 10, 11, 12, 13 and 15 of
13 such section, such section as renumbered by chapter 978 of the laws of
14 1977, are renumbered subdivisions 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13.

15 S 8. Subdivision 5 of section 41.03 of the mental hygiene law, as
16 amended by chapter 588 of the laws of 1973 and as renumbered by section
17 seven of this act, is amended to read as follows:

18 5. "local governmental unit" means the unit of local government given
19 authority in accordance with this chapter by local government to provide
20 local [or unified] services.

21 S 9. Subdivision (b) of section 41.04 of the mental hygiene law, as
22 added by chapter 978 of the laws of 1977, is amended to read as follows:

23 (b) Guidelines for the operation of local [and unified] services plans
24 and financing shall be adopted only by rule or regulation. Such rules
25 and regulations shall be submitted at least twenty-one days prior to the
26 effective date thereof to the New York state conference of local mental
27 hygiene directors for comment thereon; provided, however, if a commis-
28 sioner finds that the public health, welfare or safety requires the
29 prompt adoption of rules and regulations, he may dispense with such
30 submission prior to the effective date thereof but, in such case, such
31 commissioner shall submit such rules and regulations to the conference
32 as soon as possible for their review within sixty days after the effec-
33 tive date thereof.

34 S 10. Subdivisions (a) and (c) of section 41.07 of the mental hygiene
35 law, as amended by chapter 588 of the laws of 1973 and such section as
36 renumbered by chapter 978 of the laws of 1977, are amended to read as
37 follows:

38 (a) Local governmental units may provide local [or unified] services
39 and facilities directly or may contract for the provision of those
40 services by other units of local or state government, by voluntary agen-
41 cies, or by professionally qualified individuals.

42 (c) Local governments may provide joint local [or unified] services
43 and facilities through agreements, made pursuant to law, which may
44 provide either that one local government provide and supervise these
45 services for other local governments or that a joint board or a joint
46 local department be established to administer these services for the
47 populations of all contracting local governments.

48 S 11. Subdivision (f) of section 41.10 of the mental hygiene law, as
49 added by chapter 978 of the laws of 1977, is amended to read as follows:

50 (f) The conference shall have the following powers:

51 1. To review and comment upon rules or regulations proposed by any of
52 the offices of the department for the operation of local [and unified]
53 service plans and programs. Comments on rules or regulations approved by
54 the conference shall be given to the appropriate commissioner or commis-
55 sioners for review and consideration; and

1 2. To propose rules or regulations governing the operation of the
2 local [and unified] services programs, and to forward such proposed
3 rules or regulations to the appropriate commissioner or commissioners
4 for review and consideration.

5 S 12. Subdivisions (a) and (b) of section 41.11 of the mental hygiene
6 law, as amended by section 5 of part R2 of chapter 62 of the laws of
7 2003, are amended to read as follows:

8 (a) In all local governments with a population less than one hundred
9 thousand, community services boards, at the option of the local govern-
10 ment, shall have either nine or fifteen members appointed by the local
11 government. In all other local governments, a community services board
12 shall have fifteen members appointed by the local government.

13 Whenever practicable at least one member shall be a licensed physician
14 and one member shall be a certified psychologist and otherwise at least
15 two members shall be licensed physicians, such members to have demon-
16 strated an interest in the field of services for the mentally disabled.
17 The other members shall represent the community interest in all the
18 problems of the mentally disabled and shall include representatives from
19 community agencies for the mentally ill, the mentally retarded and
20 developmentally disabled, and those suffering from alcoholism and
21 substance abuse. The community services board shall have separate
22 subcommittees for mental health, mental retardation and developmental
23 disabilities, and alcoholism or, at the discretion of the local govern-
24 ment, alcoholism and substance abuse. Each separate subcommittee shall
25 have no more than nine members appointed by the local government, except
26 that each subcommittee for mental health shall have no more than eleven
27 members appointed by the local government. Three of each such subcommit-
28 tee shall be members of the board. Each separate subcommittee shall be
29 composed of persons who have demonstrated an interest in the field of
30 services for the particular class of mentally disabled and shall include
31 former patients, parents or relatives of such mentally disabled persons
32 and community agencies serving the particular class of mentally disa-
33 bled, except that each subcommittee for mental health shall include at
34 least two members who are or were consumers of mental health services,
35 and at least two members who are parents or relatives of persons with
36 mental illness. Each separate subcommittee shall advise the community
37 services board and the director of community services regarding the
38 exercise of all policy-making functions vested in such board or direc-
39 tor, as such functions pertain to the field of services for the partic-
40 ular class of mentally disabled individuals represented by such subcom-
41 mittee. In addition, each subcommittee for mental health shall be
42 authorized to annually evaluate the local services plan [or the unified
43 services plan, as appropriate], and shall be authorized to report on the
44 consistency of such [plans] PLAN with the needs of persons with serious
45 mental illness, including children and adolescents with serious
46 emotional disturbances. Any such report shall be forwarded annually to
47 the community services board and the director of community services and
48 a copy shall also be sent to the commissioner prior to the submission of
49 the local services plan [or unified services plan. Provided], PROVIDED,
50 however, that the provisions of this paragraph shall not apply to cities
51 of over a million in population.

52 (b) In cities of over a million a community services board shall
53 consist of fifteen members to be appointed by the mayor. There shall be
54 at least two residents of each county within such cities on the board.
55 At least one shall be a licensed physician and at least one shall be a
56 certified psychologist. The other members shall represent the community

1 interest in all of the problems of the mentally disabled and shall
2 include representatives from community agencies for the mentally ill,
3 the mentally retarded and developmentally disabled, and those suffering
4 from alcoholism and substance abuse. The community services board shall
5 have separate subcommittees for mental health, mental retardation and
6 developmental disabilities, and alcoholism or, at the discretion of the
7 local government, alcoholism and substance abuse. Each separate subcom-
8 mittee shall have no more than nine members appointed by the local
9 government, except that each subcommittee for mental health shall have
10 no more than eleven members appointed by the local government. Three
11 members of each such subcommittee shall be members of the board. Each
12 separate subcommittee shall be composed of persons who have demonstrated
13 an interest in the field of services for the particular class of mental-
14 ly disabled and shall include former patients, parents or relatives of
15 such mentally disabled persons and community agencies serving the
16 particular class of mentally disabled, except that each subcommittee for
17 mental health shall include at least two members who are or were consum-
18 ers of mental health services, and two members who are parents or rela-
19 tives of persons with mental illness. Each separate subcommittee shall
20 advise the community services board and the director of community
21 services regarding the exercise of all policy-making functions vested in
22 such board or director, as such functions pertain to the field of
23 services for the particular class of mentally disabled individuals
24 represented by such subcommittee. In addition, each subcommittee for
25 mental health shall be authorized to annually evaluate the local
26 services plan [or the unified services plan, as appropriate], and shall
27 be authorized to report on the consistency of such [plans] PLAN with the
28 needs of persons with serious mental illness, including children and
29 adolescents with serious emotional disturbances. Any such report shall
30 be forwarded annually to the community services board and the director
31 of community services, and a copy shall also be sent to the commissioner
32 prior to the submission of the local services plan [or unified services
33 plan].

34 S 13. Paragraphs 5, 6, 7 and 12 of subdivision (a) of section 41.13 of
35 the mental hygiene law, paragraphs 5 and 7 as amended by chapter 588 of
36 the laws of 1973, paragraph 6 as amended by chapter 746 of the laws of
37 1986, paragraph 12 as amended by chapter 24 of the laws of 1985 and such
38 section as renumbered by chapter 978 of the laws of 1977, are amended to
39 read as follows:

40 5. submit annually to the department for its approval and subsequent
41 state aid, a report of long range goals and specific intermediate range
42 plans as modified since the preceding report, along with a local
43 services plan [or unified services plan] for the next local fiscal year.

44 6. have the power, with the approval of local government, to enter
45 into contracts for the provision of services, including the provision of
46 community support services, and the construction of facilities including
47 contracts executed pursuant to subdivision (e) of section 41.19 of this
48 article, and have the power, when necessary, to approve construction
49 projects.

50 7. establish procedures for execution of the local services plan [or
51 the unified services plan] as approved by the local government and the
52 commissioner, including regulations to guide the provision of services
53 by all organizations and individuals within its program.

54 12. seek the cooperation and cooperate with other aging, public health
55 and social services agencies, public and private, in advancing the
56 program of local [or unified] services.

1 S 14. Section 41.14 of the mental hygiene law is REPEALED.

2 S 15. Subdivisions (a), (b), (c) and (e) of section 41.15 of the
3 mental hygiene law, subdivisions (a), (c) and (e) as amended by chapter
4 978 of the laws of 1977 and subdivision (b) as amended by chapter 707 of
5 the laws of 1988, are amended to read as follows:

6 (a) Net operating costs of programs incurred pursuant to [either] an
7 approved local services plan [or an approved unified services plan] in
8 accordance with the regulations of the commissioner or commissioners of
9 the office or offices of the department having jurisdiction of the
10 services and approved by the commissioner or commissioners of the office
11 or offices of the department having jurisdiction of the services shall
12 be eligible for state aid.

13 (b) Long range goals, intermediate range plans, and annual plans shall
14 meet requirements for comprehensive services set for each local govern-
15 ment by the commissioners of the offices of the department after taking
16 into consideration local needs and available resources. These services
17 shall be concerned with diagnosis, care, treatment, social and voca-
18 tional rehabilitation, community residential services licensed by the
19 department of mental hygiene, research, consultation and public educa-
20 tion, education and training of personnel, control and prevention of
21 mental disabilities, and the general furtherance of mental capability
22 and health. As part of the local services [or unified services plans]
23 PLAN required to establish eligibility for state aid in accordance with
24 the provisions herein, each local governmental unit shall submit a five-
25 year plan and annual implementation plans and budgets which shall
26 reflect local needs and resources, including the needs and resources
27 available for the provision of community support services, and the role
28 of facilities in the department in the provision of required services.
29 If the local government has developed community services assessments and
30 plans pursuant to subdivision four of section four hundred nine-d and
31 paragraph (b) of subdivision three of section four hundred twenty-three
32 of the social services law covering the same time period covered by the
33 five year plan and annual implementation plans and budgets required by
34 this subdivision, then the five year plan and annual implementation
35 plans and budget shall include those portions of the community services
36 assessments and plans relating to the provision of mental health, alco-
37 holism and substance abuse services and an estimate of funds to be made
38 available by the social services district for the provision or purchase
39 of these services.

40 (c) Subject to regulations for special circumstances as established by
41 the commissioner or commissioners of the office or offices of the
42 department having jurisdiction of the services, no annual plan or inter-
43 mediate range plan of the local governmental unit shall be approved
44 unless it indicates that reasonable efforts are being made to extend or
45 improve local [or unified] services in each succeeding local fiscal year
46 in accordance with the statewide long range goals and objectives of the
47 department for the development and integration of state, regional, and
48 local services for the mentally disabled.

49 (e) Capital costs incurred by a local government or by a voluntary
50 agency, pursuant to [either] an approved local services plan [or an
51 approved unified services plan] and in accordance with the regulations
52 of the commissioner or commissioners of the office or offices of the
53 department having jurisdiction of the services and with the approval of
54 the commissioner or commissioners having jurisdiction of the services,
55 shall be eligible for state aid pursuant to the provisions of this arti-
56 cle. Capital costs incurred by a voluntary agency shall be eligible for

1 state aid only if incurred pursuant to an agreement between the volun-
2 tary agency and the local governmental unit where the construction is
3 located. Such agreement shall contain the approval by the local govern-
4 mental unit of such construction and an agreement by such unit to
5 include the program of the voluntary agency in its plans and proposals.

6 S 16. Subdivisions (b), (c), (d) and paragraph 2 of subdivision (e) of
7 section 41.16 of the mental hygiene law, as added by chapter 978 of the
8 laws of 1977, paragraph 1 of subdivision (b) as amended by chapter 55 of
9 the laws of 1992 and subdivision (c) as amended by chapter 99 of the
10 laws of 1999, are amended to read as follows:

11 (b) In accordance with regulations established by the commissioner or
12 commissioners of the offices of the department having jurisdiction of
13 the services, which shall provide for prompt action on proposed local
14 services [and unified services] plans, each local governmental unit
15 shall:

16 1. establish long range goals and objectives consistent with statewide
17 goals and objectives developed pursuant to section 5.07 of this chapter
18 and develop or annually update the local services [or unified services]
19 plan of the local governmental unit or units listing providers, esti-
20 mated costs and proposed utilization of state resources, including
21 facilities and manpower, which shall be used in part to formulate state-
22 wide comprehensive plans for services.

23 2. submit one local services plan [or a unified services plan] to the
24 single agent of the department jointly designated by the commissioners
25 of the offices of the department annually for approval by the commis-
26 sioner or commissioners of the office or offices of the department
27 having jurisdiction of the services.

28 (c) A local services plan [or unified services plan] shall be devel-
29 oped, in accordance with the regulations of the commissioner or commis-
30 sioners of the office or offices of the department having jurisdiction
31 of the services by the local governmental unit or units which shall
32 direct and administer a local comprehensive planning process for its
33 geographic area, consistent with statewide goals and objectives estab-
34 lished pursuant to section 5.07 of this chapter. The planning process
35 shall involve the directors of any department facilities, directors of
36 hospital based mental health services, directors of community mental
37 health centers, consumers, consumer groups, voluntary agencies, other
38 providers of services, and local correctional facilities and other local
39 criminal justice agencies. The local governmental unit, or units, shall
40 determine the proposed local services plan [or unified services plan] to
41 be submitted for approval. If any provider of services including facili-
42 ties in the department, or any representative of the consumer or commu-
43 nity interests within the local planning process, disputes any element
44 of the proposed plan for the area which it serves, the objection shall
45 be presented in writing to the director of the local governmental unit.
46 If such dispute cannot be resolved to the satisfaction of all parties,
47 the director shall determine the plan to be submitted. If requested and
48 supplied by the objecting party, a written objection to the plan shall
49 be appended thereto and transmitted to the single agent of the depart-
50 ment jointly designated by the commissioners.

51 (d) Each commissioner of an office in the department shall review the
52 portion of the local services plan [or unified services plan] submitted
53 over which his office has jurisdiction and approve or disapprove such
54 plan in accordance with the procedures of subdivision (e) [hereof] OF
55 THIS SECTION.

1 2. A commissioner of an office of the department shall not disapprove
2 any portion of the local services plan [or unified services plan] with-
3 out providing the local governmental unit an opportunity to be heard
4 regarding the proposed disapproval and to propose any modification of
5 the plan. Pending the resolution of any dispute over approval of a
6 portion of the plan, by final determination of the commissioner having
7 jurisdiction over the services, new programs proposed shall not be
8 implemented and programs previously implemented shall continue to be
9 funded at existing levels. If a portion of the plan is disapproved, the
10 commissioner of the office having jurisdiction over such portion shall
11 notify the local governmental unit in writing stating reasons for such
12 action.

13 S 17. Sections 41.19, 41.21 and 41.23 of the mental hygiene law are
14 REPEALED.

15 S 18. Subdivision (d) of section 41.36 of the mental hygiene law, as
16 amended by chapter 262 of the laws of 1992, is amended to read as
17 follows:

18 (d) Each local governmental unit shall include in its annual local [or
19 unified services] plan a review of existing community residential facil-
20 ities providing reimbursable services and a recommendation of antic-
21 ipated needs for the development of such facilities, consistent with the
22 needs of the mentally retarded and developmentally disabled within the
23 jurisdiction of the local governmental unit.

24 S 19. Subdivision (b) of section 41.39 of the mental hygiene law, as
25 amended by chapter 515 of the laws of 1992, is amended to read as
26 follows:

27 (b) Notwithstanding any other provisions of this article, income real-
28 ized by a voluntary not-for-profit agency from industrial contracts
29 entered into pursuant to its operation of a sheltered workshop shall be
30 matched dollar for dollar by an office of the department of mental
31 hygiene through direct contract with the agency provided that no part of
32 the expenses of such sheltered workshop are claimed through a contract
33 with the local governmental unit which is receiving funding for
34 reimbursement of such expenses from the same office of the department
35 provided that such sheltered workshop is operating in accordance with an
36 approved local [or unified] services plan. In no event shall any combi-
37 nation of income including state aid exceed the total cost of operation
38 of such sheltered workshop.

39 S 20. Paragraph 2 of subdivision (e), paragraph 6 of subdivision (f),
40 and subdivisions (g), (h), and (i) of section 41.47 of the mental
41 hygiene law, as added by chapter 746 of the laws of 1986, are amended to
42 read as follows:

43 (2) The commissioner shall establish revenue goals for services,
44 provided, however, the commissioner may approve local [or unified]
45 services plans or may enter into direct contracts with providers of
46 services which substitute alternative revenue goals for individual
47 providers of services based upon appropriate documentation and justi-
48 fication, as required by the commissioner.

49 (6) the extent to which the community support services authorized by
50 the contract are consistent and integrated with the applicable local [or
51 unified] services plan of the area to be served; and

52 (g) The commissioner may enter into a direct contract for the
53 provision of community support services when the commissioner deter-
54 mines, after the approval of the local [or unified] services plan and
55 the allocation of state aid therefore, that such direct contract is
56 necessary to assure that additional community support services are

1 available to persons who are functionally disabled as a result of mental
2 illness and are eligible for community support services. Before entering
3 into a direct contract with a provider located within the geographic
4 area of a local governmental unit which receives state aid for community
5 support services pursuant to this section, the commissioner shall notify
6 the local governmental unit and give the director of the local govern-
7 mental unit an opportunity to appeal the need for such direct contract.
8 Such appeals shall be informal in nature and the rules of evidence shall
9 not apply.

10 (h) In order to qualify for one hundred percent state aid pursuant to
11 this section in any local fiscal year local governmental units shall
12 assure that the local tax levy share of expenditures for net operating
13 costs pursuant to an approved local services plan for services provided
14 to mentally ill persons pursuant to section 41.18 of this article[, when
15 applicable,] shall be equal to or greater than the local tax levy share
16 of such expenditures under an approved local services plan in the last
17 complete local fiscal year preceding the effective date of this section,
18 [and when applicable, such local tax levy share of net operating costs
19 for local governmental units submitting unified services plans pursuant
20 to section 41.23 of this article, as adjusted to reflect changes in the
21 rate of state reimbursement for approved expenditures, shall be equal to
22 or greater than the local tax levy share of the net operating costs for
23 expenditures under the approved unified services plan in the last
24 complete local fiscal year preceding the effective date of this
25 section,] provided, however, any such required maintenance of expendi-
26 tures under this subdivision for local governmental units may be reduced
27 to reflect the local governmental share of revenue applicable to
28 increased payments made by governmental agencies pursuant to title elev-
29 en of article five of the social services law, which are a result of
30 increased efficiencies in the collection of such revenue and which
31 represent an increased proportion of the total local [or unified]
32 services operating costs from the prior local fiscal year. The commis-
33 sioner shall be authorized to reduce payments made to local governmental
34 units pursuant to this article, in the following local fiscal year, for
35 failure to maintain expenditures in accordance with this subdivision.

36 (i) The provisions of subdivision (h) of this section shall not apply
37 to a local governmental unit in any local fiscal year in which the total
38 amount of state aid granted to the local governmental unit for net oper-
39 ating costs under section 41.18 [or section 41.23] of the article is
40 less than such amount of state aid granted in the local fiscal year
41 preceding the effective date of this section, or in any local fiscal
42 year in which the total amount of state aid granted to the local govern-
43 mental unit under this section, plus the total amount of direct
44 contracts entered into between the commissioner and providers of
45 services for the provision of community support services to eligible
46 residents of such local governmental unit, shall be less than the total
47 amount of such aid and direct contracts in the first local fiscal year
48 following the effective date of this section.

49 S 21. Subdivision 4 of section 41.49 of the mental hygiene law, as
50 added by chapter 499 of the laws of 1988, is amended to read as follows:

51 4. Notwithstanding any other provision of this article, in order to
52 qualify for one hundred percent state aid pursuant to this section,
53 local governmental units shall assure that local contributions for
54 expenditures in any local fiscal year for local [or unified] services
55 provided to mentally ill persons made pursuant to this article, as
56 applicable, shall be equal to or greater than the amount expended by

1 such local governmental unit in the last complete local fiscal year
2 preceding the effective date of this section. The commissioner shall be
3 authorized to reduce payments made to local governmental units which
4 have received grants pursuant to this section, in the following local
5 fiscal year, for failure to maintain expenditures in accordance with
6 this subdivision.

7 S 22. Subdivision (d) of section 41.53 of the mental hygiene law, as
8 amended by chapter 223 of the laws of 1992, is amended to read as
9 follows:

10 (d) No such grant will be awarded unless the community residence is
11 consistent with the local services plan [or the unified services plan,
12 as appropriate], pursuant to this article.

13 S 23. This act shall take effect January 1, 2009; provided, however,
14 that the amendments made to sections 9.60 and 31.27 of the mental
15 hygiene law by sections one and two of this act shall not affect the
16 repeal of such sections and shall be deemed repealed therewith; the
17 amendments to subdivision (d) of section 33.13 of the mental hygiene law
18 made by section three of this act shall be subject to the expiration and
19 reversion of such subdivision pursuant to section 18 of chapter 408 of
20 the laws of 1999, as amended when upon such date the provisions of
21 section four of this act shall take effect; and the amendments to subdi-
22 visions (a) and (b) of section 41.11 of the mental hygiene law made by
23 section twelve of this act shall not affect the expiration of such
24 subdivision and shall be deemed to expire therewith.

25

PART F

26 Section 1. Subdivision 3-a of section 1 of part C of chapter 57 of the
27 laws of 2006, relating to establishing a cost of living adjustment for
28 designated human services programs, as added by section 2 of part I of
29 chapter 58 of the laws of 2008, is amended to read as follows:

30 3-a. Notwithstanding any inconsistent provision of law, for the period
31 of April 1, 2008 through [March 31, 2009] DECEMBER 31, 2008, the commis-
32 sioners shall apply a three and two-tenths percent (3.2%) COLA under
33 this section for the purpose of establishing rates of payments,
34 contracts or any other form of reimbursement. FOR THE PERIOD COMMENCING
35 ON JANUARY 1, 2009, THE COMMISSIONERS SHALL APPLY A ONE PERCENT
36 REDUCTION TO THE AMOUNT IN EFFECT ON DECEMBER 31, 2008 FOR THE PURPOSE
37 OF ESTABLISHING RATES OF PAYMENTS, CONTRACTS OR ANY OTHER FORM OF
38 REIMBURSEMENT.

39 S 2. This act shall take effect immediately and shall be deemed to
40 have been in full force and effect on and after January 1, 2009;
41 provided, however, that the amendments to subdivision 3-a of section 1
42 of part C of chapter 57 of the laws of 2006 made by section one of this
43 act shall not affect the repeal of such section and shall be deemed
44 repealed therewith.

45

PART G

46 Section 1. Subdivision 12 of section 272 of the public health law, as
47 added by section 10 of part C of chapter 58 of the laws of 2005, is
48 amended to read as follows:

49 12. No prior authorization shall be required under the preferred drug
50 program for: (a) atypical anti-psychotics; (b) [anti-depressants; (c)]
51 anti-retrovirals used in the treatment of HIV/AIDS; [and (d)] (C) anti-
52 rejection drugs used for the treatment of organ and tissue transplants;

1 [(e)] AND (D) any other therapeutic class for the treatment of mental
2 illness or HIV/AIDS, recommended by the committee and approved by the
3 commissioner under this section.

4 S 2. Subparagraph (ii) of paragraph (b) of subdivision 9 of section
5 367-a of the social services law, as amended by section 4 of part C of
6 chapter 58 of the laws of 2008, is amended to read as follows:

7 (ii) if the drug dispensed is a multiple source prescription drug or a
8 brand-name prescription drug for which no specific upper limit has been
9 set by such federal agency, the lower of the estimated acquisition cost
10 of such drug to pharmacies, or the dispensing pharmacy's usual and
11 customary price charged to the general public. For sole and multiple
12 source brand name drugs, estimated acquisition cost means the average
13 wholesale price of a prescription drug based upon the package size
14 dispensed from, as reported by the prescription drug pricing service
15 used by the department, less [sixteen] SEVENTEEN and twenty-five one
16 hundredths percent thereof, and updated monthly by the department; or,
17 for a specialized HIV pharmacy, as defined in paragraph (f) of this
18 subdivision, acquisition cost means the average wholesale price of a
19 prescription drug based upon the package size dispensed from, as
20 reported by the prescription drug pricing service used by the depart-
21 ment, less twelve percent thereof, and updated monthly by the depart-
22 ment. For multiple source generic drugs, estimated acquisition cost
23 means the lower of the average wholesale price of a prescription drug
24 based on the package size dispensed from, as reported by the
25 prescription drug pricing service used by the department, less twenty-
26 five percent thereof, or the maximum acquisition cost, if any, estab-
27 lished pursuant to paragraph (e) of this subdivision; or, for a special-
28 ized HIV pharmacy, as defined in paragraph (f) of this subdivision,
29 acquisition cost means the lower of the average wholesale price of a
30 prescription drug based on the package size dispensed from, as reported
31 by the prescription drug pricing service used by the department, less
32 twelve percent thereof, or the maximum acquisition cost, if any, estab-
33 lished pursuant to paragraph (e) of this subdivision.

34 S 3. Subparagraph 1 of paragraph (b) of subdivision 1 of section 250
35 of the elder law, as amended by section 1 of part A of chapter 58 of the
36 laws of 2008, is amended to read as follows:

37 (1) Average wholesale price discounted by [sixteen] SEVENTEEN and
38 twenty-five one hundredths percent, plus a dispensing fee as defined in
39 paragraph (c) of this subdivision, or

40 S 4. Paragraph (a) of subdivision 2 of section 2807-d of the public
41 health law is amended by adding a new subparagraph (vi) to read as
42 follows:

43 (VI) NOTWITHSTANDING ANY CONTRARY PROVISIONS OF THIS PARAGRAPH OR ANY
44 OTHER PROVISION OF LAW OR REGULATION, FOR GENERAL HOSPITALS THE ASSESS-
45 MENT SHALL BE SEVEN TENTHS OF ONE PERCENT OF EACH GENERAL HOSPITAL'S
46 GROSS RECEIPTS RECEIVED FROM ALL PATIENT CARE SERVICES AND OTHER OPERAT-
47 ING INCOME ON A CASH BASIS FOR PERIODS ON AND AFTER JANUARY FIRST, TWO
48 THOUSAND NINE, FOR HOSPITAL OR HEALTH-RELATED SERVICES, INCLUDING, BUT
49 NOT LIMITED TO INPATIENT SERVICES, OUTPATIENT SERVICES, EMERGENCY
50 SERVICES, REFERRED AMBULATORY SERVICES AND AMBULATORY SURGICAL SERVICES,
51 BUT NOT INCLUDING RESIDENTIAL HEALTH CARE FACILITIES SERVICES OR HOME
52 HEALTH CARE SERVICES.

53 S 5. Section 2807-c of the public health law is amended by adding a
54 new subdivision 34 to read as follows:

55 34. NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION OR ANY
56 OTHER CONTRARY PROVISION OF LAW, AND SUBJECT TO THE AVAILABILITY OF

1 FEDERAL FINANCIAL PARTICIPATION, MEDICAID PER DIEM AND PER DISCHARGE
2 RATES OF PAYMENT FOR DISCHARGES AND DAYS OCCURRING ON AND AFTER JANUARY
3 FIRST, TWO THOUSAND NINE, SHALL BE COMPUTED IN ACCORDANCE WITH THE
4 FOLLOWING:

5 (A) FOR THE RATE PERIOD JANUARY FIRST, TWO THOUSAND NINE THROUGH MARCH
6 THIRTY-FIRST, TWO THOUSAND NINE, THE OPERATING COST COMPONENTS OF SUCH
7 RATES OF PAYMENT FOR INPATIENT HOSPITAL SERVICES SHALL, AFTER APPLICA-
8 TION OF ANY APPLICABLE ADJUSTMENTS TO THE TREND FACTORS AFFECTING SUCH
9 RATES, BE SUBJECT TO A UNIFORM PERCENTAGE REDUCTION OF EIGHT PERCENT;
10 AND

11 (B) FOR THE RATE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH MARCH
12 THIRTY-FIRST, TWO THOUSAND TEN, THE OPERATING COST COMPONENTS OF SUCH
13 RATES OF PAYMENT FOR INPATIENT HOSPITAL SERVICES SHALL, AFTER APPLICA-
14 TION OF ANY APPLICABLE ADJUSTMENTS TO THE TREND FACTORS AFFECTING SUCH
15 RATES, BE SUBJECT TO A UNIFORM PERCENTAGE REDUCTION OF TWO PERCENT.

16 S 6. Section 11 of part C of chapter 58 of the laws of 2008 amending
17 the social services law and the public health law relating to adjust-
18 ments of rates, as amended by section 4 of part F of chapter 497 of the
19 laws of 2008, is amended to read as follows:

20 S 11. 1. Notwithstanding paragraph (c) of subdivision 10 of section
21 2807-c of the public health law, subdivision 2-b of section 2808 of the
22 public health law, section 21 of chapter 1 of the laws of 1999, and any
23 other contrary provision of law, but subject to subparagraph (iii) of
24 paragraph (b) of subdivision 33 of section 2807-c of the public health
25 law, in determining rates of payments by state governmental agencies
26 effective for services provided on and after April 1, 2008, for inpa-
27 tient and outpatient services provided by general hospitals, for inpa-
28 tient services and adult day health care outpatient services provided by
29 residential health care facilities pursuant to article 28 of the public
30 health law, except for residential health care facilities that provide
31 extensive nursing, medical, psychological and counseling support
32 services to children, for home health care services provided pursuant to
33 article 36 of the public health law by certified home health agencies
34 and long term home health care programs, other than for services
35 provided to home care patients diagnosed with AIDS as determined by
36 applicable regulations, and personal care services provided pursuant to
37 paragraph (e) of subdivision two of section 365-a of the social services
38 law, the commissioner of health shall apply a trend factor projection
39 equal to sixty-five percent of the otherwise applicable trend factor
40 projection attributable to the period January 1, 2008 through December
41 31, 2008 in accordance with paragraph (c) of subdivision 10 of section
42 2807-c of the public health law, provided, however, that for rates of
43 payment effective for services provided on and after [September 10,
44 2008, the final trend factor projections attributable to the 2008 calen-
45 dar year period shall be further adjusted such that any increase to the
46 average trend factor projections for the period April 1, 2008 through
47 December 31, 2008 shall be reduced, on an annualized basis, by one and
48 three tenths percentage points] JANUARY 1, 2009, INCLUDING SERVICES
49 PROVIDED TO HOME CARE PATIENTS DIAGNOSED WITH AIDS AS DETERMINED BY
50 APPLICABLE REGULATIONS, SUCH 2008 TREND FACTOR PROJECTION SHALL BE
51 FURTHER REDUCED TO ZERO, AND PROVIDED FURTHER, HOWEVER, THAT NO ADJUST-
52 MENT TO SUCH 2008 TREND FACTOR PROJECTION SHALL BE MADE FOR PERIODS ON
53 AND AFTER APRIL 1, 2008 PURSUANT TO SUBPARAGRAPH 3 OF PARAGRAPH (C) OF
54 SUBDIVISION 10 OF SECTION 2807-C OF THE PUBLIC HEALTH LAW, AND PROVIDED
55 FURTHER, HOWEVER, THAT FOR RATES OF PAYMENT FOR ASSISTED LIVING PROGRAM
56 SERVICES PROVIDED ON AND AFTER JANUARY 1, 2009, TREND FACTOR PROJECTIONS

1 ATTRIBUTABLE TO THE 2008 CALENDAR YEAR SHALL BE REDUCED TO ZERO, AND
2 FURTHER PROVIDED, HOWEVER, THAT FOR RATES OF PAYMENT FOR PERSONAL CARE
3 SERVICES PROVIDED ON AND AFTER JANUARY 1, 2009, IN THOSE SOCIAL SERVICES
4 DISTRICTS, INCLUDING NEW YORK CITY, WHOSE RATES OF PAYMENT FOR SUCH
5 SERVICES ARE ISSUED BY SUCH SOCIAL SERVICES DISTRICTS PURSUANT TO A
6 RATE-SETTING EXEMPTION ISSUED BY THE COMMISSIONER OF HEALTH TO SUCH
7 SOCIAL SERVICES DISTRICTS IN ACCORDANCE WITH APPLICABLE REGULATIONS,
8 TREND FACTOR PROJECTIONS ATTRIBUTABLE TO THE 2008 CALENDAR YEAR SHALL BE
9 REDUCED TO ZERO.

10 2. The commissioner of health shall adjust rates of payment to reflect
11 the exclusion pursuant to this section of such specified trend factor
12 projections or adjustments.

13 S 7. 1. Notwithstanding paragraph (c) of subdivision 10 of section
14 2807-c of the public health law, subdivision 2-b of section 2808 of the
15 public health law, section 21 of chapter 1 of the laws of 1999, section
16 5 of part F of chapter 497 of the laws of 2008 and any other contrary
17 provision of law, in determining rates of payments by state governmental
18 agencies effective for services provided on and after January 1, 2009,
19 for inpatient and outpatient services provided by general hospitals, for
20 inpatient services and adult day health care outpatient services
21 provided by residential health care facilities pursuant to article 28 of
22 the public health law, except for residential health care facilities
23 that provide extensive nursing, medical, psychological and counseling
24 support services to children, for home health care services provided
25 pursuant to article 36 of the public health law by certified home health
26 agencies, long term home health care programs and AIDS home care
27 programs, and for personal care services provided pursuant to section
28 367-i of the social services law, the commissioner of health shall apply
29 zero trend factor projections attributable to the 2009 calendar year in
30 accordance with paragraph (c) of subdivision 10 of section 2807-c of the
31 public health law, provided, however, that such zero trend factor
32 projections for such 2009 calendar year shall also be applied to rates
33 of payment for personal care services provided in those local social
34 services districts, including New York city, whose rates of payment for
35 such services are established by such local social services districts
36 pursuant to a rate-setting exemption issued by the commissioner of
37 health to such local social services districts in accordance with appli-
38 cable regulations, and provided further, however, that for rates of
39 payment for assisted living program services provided on and after Janu-
40 ary 1, 2009, trend factor projections attributable to the 2009 calendar
41 year shall be established at zero percent.

42 2. The commissioner of health shall adjust rates of payment to reflect
43 the exclusion pursuant to this section of such specified trend factor
44 projections or adjustments.

45 S 8. Subparagraph (i) of paragraph (a) of subdivision 2-b of section
46 2808 of the public health law, as added by section 47 of part C of chap-
47 ter 109 of the laws of 2006, is amended to read as follows:

48 (i) Subject to the provisions of subparagraphs (ii) through (vi) of
49 this paragraph, for the two thousand seven rate period the operating
50 cost component of rates of payment shall reflect the operating cost
51 component of rates effective for October first, two thousand six, as
52 adjusted for inflation in accordance with paragraph (c) of subdivision
53 ten of section twenty-eight hundred seven-c of this article; and for the
54 JANUARY FIRST, two thousand eight THROUGH MARCH THIRTY-FIRST, TWO THOU-
55 SAND NINE rate period the operating cost component of rates of payment
56 shall reflect the operating cost component of rates effective for Decem-

1 ber thirty-first, two thousand six, as adjusted for inflation in accord-
2 ance with paragraph (c) of subdivision ten of section twenty-eight
3 hundred seven-c of this article.

4 S 9. Subparagraph (i) of paragraph (b) of subdivision 2-b of section
5 2808 of the public health law, as added by section 47 of part C of chap-
6 ter 109 of the laws of 2006, is amended to read as follows:

7 (i) Subject to the provisions of subparagraphs (ii) through (xiv) of
8 this paragraph, for periods on and after [January] APRIL first, two
9 thousand nine the operating cost component of rates of payment shall
10 reflect allowable operating costs as reported in each facility's cost
11 report for the two thousand two calendar year, as adjusted for inflation
12 on an annual basis in accordance with the methodology set forth in para-
13 graph (c) of subdivision ten of section twenty-eight hundred seven-c of
14 this article, provided, however, that for those facilities which do not
15 receive a per diem add-on adjustment pursuant to subparagraph (ii) of
16 paragraph (a) of this subdivision, rates shall be further adjusted to
17 include the proportionate benefit, as determined by the commissioner, of
18 the expiration of the opening paragraph and paragraph (a) of subdivision
19 sixteen of this section and of paragraph (a) of subdivision fourteen of
20 this section, and provided further that the operating cost component of
21 rates of payment for those facilities which did not receive a per diem
22 adjustment in accordance with subparagraph (ii) of paragraph (a) of this
23 subdivision shall not be less than the operating component such facili-
24 ties received in the two thousand eight rate period, as adjusted for
25 inflation on an annual basis in accordance with the methodology set
26 forth in paragraph (c) of subdivision ten of section twenty-eight
27 hundred seven-c of this article and further provided, however, that
28 rates for facilities whose operating cost component reflects base year
29 costs subsequent to January first, two thousand two shall have rates
30 computed in accordance with this paragraph, utilizing allowable operat-
31 ing costs as reported in such subsequent base year period, and trended
32 forward to the rate year in accordance with applicable inflation
33 factors.

34 S 10. Section 2808 of the public health law is amended by adding a new
35 subdivision 25 to read as follows:

36 25. NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION OR ANY
37 OTHER CONTRARY PROVISION OF LAW, AND SUBJECT TO THE AVAILABILITY OF
38 FEDERAL FINANCIAL PARTICIPATION, FOR RATE PERIODS ON AND AFTER JANUARY
39 FIRST, TWO THOUSAND NINE, THE OPERATING COST COMPONENTS OF RATES OF
40 PAYMENT PAID BY GOVERNMENTAL AGENCIES FOR INPATIENT SERVICES TO EACH
41 RESIDENTIAL HEALTH CARE FACILITY SHALL, AFTER APPLICATION OF ANY APPLI-
42 CABLE ADJUSTMENTS TO THE TREND FACTORS AFFECTING SUCH RATES, BE SUBJECT
43 TO UNIFORM REDUCTIONS OF EIGHT PERCENT FOR THE PERIOD JANUARY FIRST, TWO
44 THOUSAND NINE THROUGH MARCH THIRTY-FIRST, TWO THOUSAND NINE, AND OF TWO
45 PERCENT FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH MARCH
46 THIRTY-FIRST, TWO THOUSAND TEN.

47 S 11. Section 3614 of the public health law is amended by adding a new
48 subdivision 12 to read as follows:

49 12. (A) NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION OR ANY
50 OTHER CONTRARY PROVISION OF LAW, AND SUBJECT TO THE AVAILABILITY OF
51 FEDERAL FINANCIAL PARTICIPATION, FOR RATE PERIODS ON AND AFTER JANUARY
52 FIRST, TWO THOUSAND NINE, THE RATES OF PAYMENT PAID BY GOVERNMENTAL
53 AGENCIES FOR HOME HEALTH CARE SERVICES TO EACH CERTIFIED HOME HEALTH
54 AGENCY, EACH LONG TERM HOME HEALTH CARE PROGRAM, AND EACH AIDS HOME CARE
55 PROGRAM SHALL, AFTER APPLICATION OF ANY APPLICABLE ADJUSTMENTS TO THE

1 TREND FACTORS AFFECTING SUCH RATES, BE SUBJECT TO A UNIFORM REDUCTION OF
2 ONE PERCENT.

3 (B) NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION OR ANY
4 OTHER CONTRARY PROVISION OF LAW, AND SUBJECT TO THE AVAILABILITY OF
5 FEDERAL FINANCIAL PARTICIPATION, FOR RATE PERIODS ON AND AFTER JANUARY
6 FIRST, TWO THOUSAND NINE, THE RATES OF PAYMENT PAID BY GOVERNMENTAL
7 AGENCIES FOR PERSONAL CARE SERVICES, INCLUDING PERSONAL CARE SERVICES
8 PROVIDED IN THOSE SOCIAL SERVICES DISTRICTS WHOSE RATES OF PAYMENT FOR
9 SUCH SERVICES ARE ESTABLISHED BY SUCH SOCIAL SERVICES DISTRICTS PURSUANT
10 TO A RATE-SETTING EXEMPTION ISSUED BY THE COMMISSIONER TO SUCH SOCIAL
11 SERVICES DISTRICTS IN ACCORDANCE WITH APPLICABLE REGULATIONS, SHALL,
12 AFTER APPLICATION OF ANY APPLICABLE ADJUSTMENTS TO THE TREND FACTORS
13 AFFECTING SUCH RATES, BE SUBJECT TO A UNIFORM REDUCTION OF ONE PERCENT.

14 S 12. The opening paragraph of subdivision 7 of section 3614 of the
15 public health law, as amended by section 18 of part C of chapter 109 of
16 the laws of 2006, is amended to read as follows:

17 Notwithstanding any inconsistent provision of law or regulation, for
18 purposes of establishing rates of payment by governmental agencies for
19 certified home health agencies for the period April first, nineteen
20 hundred ninety-five through December thirty-first, nineteen hundred
21 ninety-five and for rate periods beginning on or after January first,
22 nineteen hundred ninety-six, the reimbursable base year administrative
23 and general costs of a provider of services shall not exceed the state-
24 wide average of total reimbursable base year administrative and general
25 costs of such providers of services, PROVIDED, HOWEVER, THAT FOR
26 PURPOSES OF ESTABLISHING SUCH RATES OF PAYMENT FOR PERIODS ON AND AFTER
27 JANUARY FIRST, TWO THOUSAND NINE, SUCH REIMBURSABLE BASE YEAR ADMINIS-
28 TRATIVE AND GENERAL COSTS FOR THOSE SUCH AGENCIES WITH ANNUAL EXPENSES
29 IN EXCESS OF TWENTY MILLION DOLLARS, AS DETERMINED USING THE REPORTED
30 BASE YEAR COST DATA USED TO ESTABLISH THE STATEWIDE AVERAGE ADMINISTRA-
31 TIVE AND GENERAL COST CEILING FOR THE APPLICABLE RATE YEAR, SHALL NOT
32 EXCEED THE LOWER OF SUCH STATEWIDE AVERAGE OR TWENTY PERCENT OF EACH
33 SUCH AGENCY'S TOTAL REIMBURSABLE BASE YEAR COSTS. The amount of such
34 reduction in certified home health agency rates of payments made during
35 the period April first, nineteen hundred ninety-five through March thir-
36 ty-first, nineteen hundred ninety-six shall be adjusted in the nineteen
37 hundred ninety-six rate period on a pro-rata basis, if it is determined
38 upon post-audit review by June fifteenth, nineteen hundred ninety-six
39 and reconciliation that the savings for the state share, excluding the
40 federal and local government shares, of medical assistance payments
41 pursuant to title eleven of article five of the social services law
42 based on the limitation of such payment pursuant to this subdivision is
43 in excess of one million five hundred thousand dollars or is less than
44 one million five hundred thousand dollars for payments made on or before
45 March thirty-first, nineteen hundred ninety-six to reflect the amount by
46 which such savings are in excess of or lower than one million five
47 hundred thousand dollars. For rate periods on and after January first,
48 two thousand five through December thirty-first, two thousand six, there
49 shall be no such reconciliation of the amount of savings in excess of or
50 lower than one million five hundred thousand dollars.

51 S 13. The opening paragraph of subdivision 7-a of section 3614 of the
52 public health law, as amended by section 89 of part C of chapter 58 of
53 the laws of 2007, is amended to read as follows:

54 Notwithstanding any inconsistent provision of law or regulation, for
55 the purposes of establishing rates of payment by governmental agencies
56 for long term home health care programs for the period April first, two

1 thousand five, through December thirty-first, two thousand five, and for
2 the period January first, two thousand six through March thirty-first,
3 two thousand seven, and on and after April first, two thousand seven
4 through March thirty-first, two thousand nine, the reimbursable base
5 year administrative and general costs of a provider of services shall
6 not exceed the statewide average of total reimbursable base year admin-
7 istrative and general costs of such providers of services PROVIDED,
8 HOWEVER, THAT FOR PURPOSES OF ESTABLISHING SUCH RATES OF PAYMENT FOR
9 PERIODS ON AND AFTER JANUARY FIRST, TWO THOUSAND NINE, SUCH REIMBURSABLE
10 BASE YEAR ADMINISTRATIVE AND GENERAL COSTS FOR THOSE SUCH PROVIDERS WITH
11 ANNUAL EXPENSES IN EXCESS OF TWENTY MILLION DOLLARS, AS DETERMINED USING
12 THE REPORTED BASE YEAR COST DATA USED TO ESTABLISH THE STATEWIDE AVERAGE
13 ADMINISTRATIVE AND GENERAL COST CEILING FOR THE APPLICABLE RATE YEAR,
14 SHALL NOT EXCEED THE LOWER OF SUCH STATEWIDE AVERAGE OR TWENTY PERCENT
15 OF EACH SUCH PROVIDER'S TOTAL REIMBURSABLE BASE YEAR COSTS.

16 S 14. Section 3614 of the public health law is amended by adding a new
17 subdivision 2-a to read as follows:

18 2-A. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR ANY
19 OTHER LAW, RULE OR REGULATION, FOR PURPOSES OF ESTABLISHING RATES OF
20 PAYMENT FOR CERTIFIED HOME HEALTH AGENCY SERVICES AND LONG TERM HOME
21 HEALTH CARE PROGRAM SERVICES, FOR PERIODS ON AND AFTER JANUARY FIRST,
22 TWO THOUSAND NINE, NO AMOUNT SHALL BE INCLUDED IN THE RATE FOR ANY
23 COMMUNITY-BASED AGENCY OR PROGRAM THAT IS IN EXCESS OF ONE HUNDRED
24 PERCENT OF THE WEIGHTED AVERAGE COST OF ALL COMMUNITY-BASED AGENCIES OR
25 PROGRAMS IN EACH SUCH AGENCY'S OR PROGRAM'S GROUP, OR THAT, IN THE CASE
26 OF HOSPITAL-BASED AGENCIES OR PROGRAMS, IS IN EXCESS OF ONE HUNDRED
27 PERCENT OF THE WEIGHTED AVERAGE COST OF COMMUNITY BASED AGENCIES OR
28 PROGRAMS IN THE AREA IN WHICH SUCH HOSPITAL-BASED AGENCIES OR PROGRAMS
29 ARE LOCATED.

30 S 15. Subparagraphs (xiii), (xiv) and (xv) of paragraph (a) of subdi-
31 vision 6 of section 2807-s of the public health law, as added by section
32 15 of part B of chapter 58 of the laws of 2008, are amended to read as
33 follows:

34 (xiii) A gross statewide amount for the period October first, two
35 thousand eight through March thirty-first, two thousand nine, shall be
36 [sixty-four] ONE HUNDRED SEVENTY-FOUR million two hundred thousand
37 dollars. Such amount shall be separately reported and paid in six month-
38 ly installments by the tenth day of each month from October two thousand
39 eight to March two thousand nine. Such reports and payments must
40 initially be based on each payers' monthly enrollment count for the
41 preceding month and shall be reconciled on a month to month basis to
42 reflect the actual monthly enrollment counts for the applicable month.

43 (xiv) A gross annual statewide amount for the period January first,
44 two thousand nine through December thirty-first, two thousand ten, shall
45 be [eight hundred nineteen] NINE HUNDRED THIRTY-NINE million dollars.

46 (xv) A gross statewide amount for the period January first, two thou-
47 sand eleven through March thirty-first, two thousand eleven, shall be
48 two hundred [four] THIRTY-FOUR million seven hundred fifty thousand
49 dollars.

50 S 16. Clause (A) of subparagraph (i) of paragraph (b) of subdivision
51 30 of section 2807-c of the public health law, as amended by section
52 22-b of part B of chapter 58 of the laws of 2008, is amended to read as
53 follows:

54 (A) eighteen million five hundred thousand dollars on an annualized
55 basis for the period April first, two thousand two through December
56 thirty-first, two thousand two; thirty-seven million four hundred thou-

1 sand dollars on an annualized basis for the period January first, two
2 thousand three through December thirty-first, two thousand three;
3 fifty-two million two hundred thousand dollars on an annualized basis
4 for the period January first, two thousand four through December thir-
5 ty-first, two thousand six; twenty-six million one hundred thousand
6 dollars for the period January first, two thousand seven through June
7 thirtieth, two thousand seven; forty-nine million dollars for the period
8 July first, two thousand seven through March thirty-first, two thousand
9 eight; [forty-nine] FORTY million dollars for the period April first,
10 two thousand eight through March thirty-first, two thousand nine;
11 [forty-nine] THIRTY-SEVEN million dollars for the period April first,
12 two thousand nine through March thirty-first, two thousand ten; and
13 [forty-nine] THIRTY-SEVEN million dollars for the period April first,
14 two thousand ten through March thirty-first, two thousand eleven.

15 S 17. Clause (A) of subparagraph (i) of paragraph (b) of subdivision
16 18 of section 2808 of the public health law, as amended by section 73-a
17 of part C of chapter 58 of the laws of 2008, is amended to read as
18 follows:

19 (A) seven million five hundred thousand dollars on an annualized basis
20 for the period April first, two thousand two through December thirty-
21 first, two thousand two; eleven million seven hundred thousand dollars
22 on an annualized basis for the period January first, two thousand three
23 through December thirty-first, two thousand three; sixteen million two
24 hundred thousand dollars on an annualized basis for the period January
25 first, two thousand four through December thirty-first, two thousand
26 six; and eight million one hundred thousand dollars for the period Janu-
27 ary first, two thousand seven through June thirtieth, two thousand
28 seven, eight million one hundred thousand dollars for the period July
29 first, two thousand seven through March thirty-first, two thousand
30 eight, [seven] AND THREE million [three] ONE hundred thousand dollars
31 for the period April first, two thousand eight through March thirty-
32 first, two thousand nine and one million nine hundred thousand dollars
33 for the period April first, two thousand nine through March thirty-
34 first, two thousand ten and each state fiscal year thereafter.

35 S 18. Paragraph (gg) of subdivision 1 of section 2807-v of the public
36 health law, as amended by section 5 of part B of chapter 58 of the laws
37 of 2008, is amended to read as follows:

38 (gg) Funds shall be reserved and accumulated from year to year and
39 shall be available, including income from invested funds, for purposes
40 of grants to non-public general hospitals pursuant to paragraph (c) of
41 subdivision thirty of section twenty-eight hundred seven-c of this arti-
42 cle from the tobacco control and insurance initiatives pool established
43 for the following periods in the following amounts:

44 (i) up to one million three hundred thousand dollars on an annualized
45 basis for the period January first, two thousand two through December
46 thirty-first, two thousand two;

47 (ii) up to three million two hundred thousand dollars on an annualized
48 basis for the period January first, two thousand three through December
49 thirty-first, two thousand three;

50 (iii) up to five million six hundred thousand dollars on an annualized
51 basis for the period January first, two thousand four through December
52 thirty-first, two thousand four;

53 (iv) up to eight million six hundred thousand dollars for the period
54 January first, two thousand five through December thirty-first, two
55 thousand five;

1 (v) up to eight million six hundred thousand dollars on an annualized
2 basis for the period January first, two thousand six through December
3 thirty-first, two thousand six;

4 (vi) up to two million six hundred thousand dollars for the period
5 January first, two thousand seven through December thirty-first, two
6 thousand seven; AND

7 (vii) up to [two million] six hundred FIFTY thousand dollars for the
8 period January first, two thousand eight through [December] MARCH thir-
9 ty-first, two thousand eight[;

10 (viii) up to two million six hundred thousand dollars for the period
11 January first, two thousand nine through December thirty-first, two
12 thousand nine;

13 (ix) up to two million six hundred thousand dollars for the period
14 January first, two thousand ten through December thirty-first, two thou-
15 sand ten; and

16 (x) up to six hundred fifty thousand dollars for the period January
17 first, two thousand eleven through March thirty-first, two thousand
18 eleven].

19 S 19. Paragraph (oo) of subdivision 1 of section 2807-v of the public
20 health law, as amended by section 5 of part B of chapter 58 of the laws
21 of 2008, is amended to read as follows:

22 (oo) Funds shall be reserved and accumulated from year to year and
23 shall be available, including income from invested funds, for purposes
24 of grants to non-public general hospitals pursuant to paragraph (e) of
25 subdivision twenty-five of section twenty-eight hundred seven-c of this
26 article from the tobacco control and insurance initiatives pool estab-
27 lished for the following periods in the following amounts:

28 (i) up to five million dollars on an annualized basis for the period
29 January first, two thousand four through December thirty-first, two
30 thousand four;

31 (ii) up to five million dollars for the period January first, two
32 thousand five through December thirty-first, two thousand five;

33 (iii) up to five million dollars for the period January first, two
34 thousand six through December thirty-first, two thousand six;

35 (iv) up to five million dollars for the period January first, two
36 thousand seven through December thirty-first, two thousand seven; and

37 (v) up to [five] ONE million TWO HUNDRED FIFTY THOUSAND dollars for
38 the period January first, two thousand eight through [December] MARCH
39 thirty-first, two thousand eight[;

40 (vi) up to five million dollars for the period January first, two
41 thousand nine through December thirty-first, two thousand nine;

42 (vii) up to five million dollars for the period January first, two
43 thousand ten through December thirty-first, two thousand ten; and

44 (viii) up to one million two hundred fifty thousand dollars for the
45 period January first, two thousand eleven through March thirty-first,
46 two thousand eleven].

47 S 20. Paragraph (e) of subdivision 25 of section 2807-c of the public
48 health law, as added by section 7 of part B of chapter 58 of the laws of
49 2004, is amended to read as follows:

50 (e) From amounts available pursuant to paragraph (oo) of subdivision
51 one of section twenty-eight hundred seven-v of this article, allocations
52 shall be made to non-public general hospitals receiving a rate adjust-
53 ment pursuant to paragraph (d) of this subdivision when the rate adjust-
54 ment pursuant to paragraph (d) of this subdivision results in the gener-
55 al hospital exceeding its applicable disproportionate share payment
56 limit in the year in which the adjustment is made FOR THE TWO THOUSAND

1 FOUR CALENDAR YEAR AND ANY PRIOR YEAR and the amount of the associated
2 reduction in the hospital's disproportionate share payments would result
3 in the hospital receiving less than its total distribution amount in
4 that year. A hospital's "total distribution amount" shall be the amount
5 that the hospital would have received pursuant to paragraphs (c) and (d)
6 of subdivision three of section twenty-eight hundred seven-m of this
7 article prior to the effective date of this paragraph. A hospital's
8 eligible loss for purposes of this paragraph shall be the amount of the
9 loss in such total distribution amount. Each eligible hospital's allo-
10 cation of available funds pursuant to this paragraph within a year shall
11 be determined based on its proportionate share of the aggregate eligible
12 losses for all such hospitals, limited by the amount of the rate adjust-
13 ment pursuant to paragraph (d) of this subdivision.

14 S 21. Paragraph (c) of subdivision 30 of section 2807-c of the public
15 health law, as amended by section 3 of part E of chapter 63 of the laws
16 of 2005, is amended to read as follows:

17 (c) From amounts available pursuant to paragraph (gg) of subdivision
18 one of section twenty-eight hundred seven-v of this article, allocations
19 shall be made to non-public general hospitals whose allocated labor
20 adjustments pursuant to paragraphs (a) and (e) of this subdivision and
21 adjustment pursuant to subdivision thirty-two of this section results in
22 the general hospital exceeding its applicable disproportionate share
23 payment limit ATTRIBUTABLE TO THE TWO THOUSAND FOUR CALENDAR YEAR OR ANY
24 PRIOR YEAR. Each such hospital's allocation of available funds pursuant
25 to this paragraph within a year shall be determined based on its propor-
26 tionate share of the aggregate reduction of federal disproportionate
27 share funding for all such hospitals for the year resulting from the
28 allocated labor adjustments pursuant to paragraphs (a) and (e) of this
29 subdivision and from the adjustment pursuant to subdivision thirty-two
30 of this section.

31 S 22. Clause (A) of subparagraph (i) of paragraph (b) of subdivision 1
32 of section 2807-1 of the public health law, as amended by section 4 of
33 part B of chapter 58 of the laws of 2008, is amended to read as follows:

34 (A) an amount not to exceed six million dollars on an annualized basis
35 for the periods January first, nineteen hundred ninety-seven through
36 December thirty-first, nineteen hundred ninety-nine; up to six million
37 dollars for the period January first, two thousand through December
38 thirty-first, two thousand; up to five million dollars for the period
39 January first, two thousand one through December thirty-first, two thou-
40 sand one; up to four million dollars for the period January first, two
41 thousand two through December thirty-first, two thousand two; up to two
42 million six hundred thousand dollars for the period January first, two
43 thousand three through December thirty-first, two thousand three; up to
44 one million three hundred thousand dollars for the period January first,
45 two thousand four through December thirty-first, two thousand four; up
46 to six hundred seventy thousand dollars for the period January first,
47 two thousand five through June thirtieth, two thousand five; up to one
48 million three hundred thousand dollars for the period April first, two
49 thousand six through March thirty-first, two thousand seven; and up to
50 one million three hundred thousand dollars annually for the period April
51 first, two thousand seven through March thirty-first, two thousand
52 [eleven] NINE, shall be allocated to individual subsidy programs; and

53 S 23. Paragraph (e) of subdivision 2 of section 4 of section 1 of
54 chapter 703 of the laws of 1988, relating to enacting the expanded
55 health care coverage act of nineteen hundred eighty-eight and amending
56 the insurance law and other laws relating to expanded health care and

1 catastrophic health care coverage, as amended by section 20 of part B of
2 chapter 58 of the laws of 2008, is amended to read as follows:

3 (e) Applications for enrollment in the individual subsidy program will
4 not be accepted on and after January first, two thousand one; provided,
5 however, individuals and families who are otherwise eligible to receive
6 benefits under such program and are enrolled prior to January first, two
7 thousand one, may remain enrolled in such program until March thirty-
8 first, two thousand [eleven] NINE.

9 S 24. Paragraph (w) of subdivision 1 of section 2807-v of the public
10 health law, as amended by section 5 of part B of chapter 58 of the laws
11 of 2008, is amended to read as follows:

12 (w) Funds shall be deposited by the commissioner, within amounts
13 appropriated, and the state comptroller is hereby authorized and
14 directed to receive for deposit to the credit of the state special
15 revenue funds - other, HCRA transfer fund, medical assistance account,
16 or any successor fund or account, for purposes of funding the state
17 share of the treatment of breast and cervical cancer pursuant to para-
18 graph (v) of subdivision four of section three hundred sixty-six of the
19 social services law, from the tobacco control and insurance initiatives
20 pool established for the following periods in the following amounts:

21 (i) up to four hundred fifty thousand dollars for the period January
22 first, two thousand two through December thirty-first, two thousand two;

23 (ii) up to two million one hundred thousand dollars for the period
24 January first, two thousand three through December thirty-first, two
25 thousand three;

26 (iii) up to two million one hundred thousand dollars for the period
27 January first, two thousand four through December thirty-first, two
28 thousand four;

29 (iv) up to two million one hundred thousand dollars for the period
30 January first, two thousand five through December thirty-first, two
31 thousand five;

32 (v) up to two million one hundred thousand dollars for the period
33 January first, two thousand six through December thirty-first, two thou-
34 sand six;

35 (vi) up to two million one hundred thousand dollars for the period
36 January first, two thousand seven through December thirty-first, two
37 thousand seven; AND

38 (vii) up to two million one hundred thousand dollars for the period
39 January first, two thousand eight through December thirty-first, two
40 thousand eight[;

41 (viii) up to two million one hundred thousand dollars for the period
42 January first, two thousand nine through December thirty-first, two
43 thousand nine;

44 (ix) up to two million one hundred thousand dollars for the period
45 January first, two thousand ten through December thirty-first, two thou-
46 sand ten; and

47 (x) up to five hundred twenty-five thousand dollars for the period
48 January first, two thousand eleven through March thirty-first, two thou-
49 sand eleven].

50 S 25. Subparagraph (vi) of paragraph (m) of subdivision 1 of section
51 2807-1 of the public health law, as amended by section 4 of part B of
52 chapter 58 of the laws of 2008, is amended to read as follows:

53 (vi) from the pool or the health care reform act (HCRA) resources
54 fund, whichever is applicable, for the period January first, two thou-
55 sand five through December thirty-first, two thousand six, up to ten
56 million fifty thousand dollars on an annual basis, for the period Janu-

1 ary first, two thousand seven through December thirty-first, two thou-
2 sand [ten] EIGHT, up to nineteen million dollars annually[, and for the
3 period January first, two thousand eleven through March thirty-first,
4 two thousand eleven, up to four million seven hundred fifty thousand
5 dollars].

6 S 26. Section 2807-r of the public health law, as amended by section
7 30 of part B of chapter 58 of the laws of 2008, is amended to read as
8 follows:

9 S 2807-r. Funding for expansion of cancer services. To the extent of
10 funds available therefor pursuant to section twenty-eight hundred
11 seven-1 of this article OR ANY OTHER SOURCE MADE AVAILABLE FOR THESE
12 PURPOSES, the commissioner may allocate funds for competitive grants or
13 reimbursement for the expansion of cancer services into medically under-
14 served or high need areas or medically underserved populations, and for
15 training programs for physicians and other practitioners from medically
16 underserved areas to upgrade their training and education in relation to
17 providing cancer education, detection and treatment services in such
18 areas.

19 S 27. Subparagraph (iv) of paragraph (c) of subdivision 1 of section
20 2807-1 of the public health law, as amended by section 4 of part B of
21 chapter 58 of the laws of 2008, is amended to read as follows:

22 (iv) distributions by the commissioner related to poison control
23 centers pursuant to subdivision seven of section twenty-five hundred-d
24 of this chapter, up to five million dollars for the period January
25 first, nineteen hundred ninety-seven through December thirty-first,
26 nineteen hundred ninety-seven, up to three million dollars on an annual-
27 ized basis for the periods during the period January first, nineteen
28 hundred ninety-eight through December thirty-first, nineteen hundred
29 ninety-nine, up to five million dollars annually for the periods January
30 first, two thousand through December thirty-first, two thousand two, up
31 to four million six hundred thousand dollars annually for the periods
32 January first, two thousand three through December thirty-first, two
33 thousand four, up to five million one hundred thousand dollars for the
34 period January first, two thousand five through December thirty-first,
35 two thousand six annually, up to five million one hundred thousand
36 dollars annually for the period January first, two thousand seven
37 through December thirty-first, two thousand [ten, and up to one million
38 two hundred seventy-five thousand dollars for the period January first,
39 two thousand eleven through March thirty-first, two thousand eleven]
40 EIGHT; and

41 S 28. Paragraph (jj) of subdivision 1 of section 2807-v of the public
42 health law, as amended by section 5 of part B of chapter 58 of the laws
43 of 2008, is amended to read as follows:

44 (jj) Funds shall be reserved and accumulated from year to year and
45 shall be available, including income from invested funds, for the
46 purposes of a grant program to improve access to infertility services,
47 treatments and procedures, from the tobacco control and insurance initi-
48 atives pool established for the period January first, two thousand two
49 through December thirty-first, two thousand two in the amount of nine
50 million one hundred seventy-five thousand dollars, for the period April
51 first, two thousand six through March thirty-first, two thousand seven
52 in the amount of five million dollars, AND for the period April first,
53 two thousand seven through March thirty-first, two thousand eight in the
54 amount of five million dollars[, for the period April first, two thou-
55 sand eight through March thirty-first, two thousand nine in the amount
56 of five million dollars, for the period April first, two thousand nine

1 through March thirty-first, two thousand ten in the amount of five
2 million dollars, and for the period April first, two thousand ten
3 through March thirty-first, two thousand eleven in the amount of five
4 million dollars].

5 S 29. Subparagraphs (viii) and (ix) of paragraph (a) of subdivision 7
6 of section 2807-s of the public health law, as amended by section 14 of
7 part B of chapter 58 of the laws of 2008, are amended, subparagraphs
8 (x), (xi) and (xii) are renumbered (xi), (xii) and (xiii) and a new
9 subparagraph (ix) is added to read as follows:

10 (viii) four hundred seventy million dollars [annually] for the period
11 January first, two thousand seven through December thirty-first, two
12 thousand [ten, and] SEVEN;

13 (IX) FOUR HUNDRED FORTY-SIX MILLION SIX HUNDRED THOUSAND DOLLARS ANNU-
14 ALLY FOR THE PERIOD JANUARY FIRST, TWO THOUSAND EIGHT THROUGH DECEMBER
15 THIRTY-FIRST, TWO THOUSAND TEN; AND

16 [(ix)] (X) one hundred [seventeen] ELEVEN million [five] SIX hundred
17 FIFTY thousand dollars for the period January first, two thousand eleven
18 through March thirty-first, two thousand eleven;

19 S 30. Paragraph (e) of subdivision 1 of section 2807-1 of the public
20 health law, as amended by section 4 of part B of chapter 58 of the laws
21 of 2008, is amended to read as follows:

22 (e) Funds shall be reserved and accumulated from year to year and
23 shall be available, including income from invested funds, for purposes
24 of distributions to organizations to support the health workforce
25 retraining program established pursuant to section twenty-eight hundred
26 seven-g of this article from the respective health care initiatives
27 pools established for the following periods in the following amounts
28 from the pools or the health care reform act (HCRA) resources fund,
29 whichever is applicable, during the period January first, nineteen
30 hundred ninety-seven through December thirty-first, nineteen hundred
31 ninety-nine, up to fifty million dollars on an annualized basis, up to
32 thirty million dollars for the period January first, two thousand
33 through December thirty-first, two thousand, up to forty million dollars
34 for the period January first, two thousand one through December thirty-
35 first, two thousand one, up to fifty million dollars for the period
36 January first, two thousand two through December thirty-first, two thou-
37 sand two, up to forty-one million one hundred fifty thousand dollars for
38 the period January first, two thousand three through December thirty-
39 first, two thousand three, up to forty-one million one hundred fifty
40 thousand dollars for the period January first, two thousand four through
41 December thirty-first, two thousand four, up to fifty-eight million
42 three hundred sixty thousand dollars for the period January first, two
43 thousand five through December thirty-first, two thousand five, up to
44 fifty-two million three hundred sixty thousand dollars for the period
45 January first, two thousand six through December thirty-first, two thou-
46 sand six, up to thirty-five million four hundred thousand dollars [annu-
47 ally] for the period January first, two thousand seven through December
48 thirty-first, two thousand [ten] EIGHT, UP TO TWENTY-EIGHT MILLION FOUR
49 HUNDRED THOUSAND DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND NINE
50 THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND NINE, UP TO FOURTEEN MILLION
51 THREE HUNDRED THOUSAND DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOU-
52 SAND TEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, and up to
53 [eight] THREE million [eight] FIVE hundred [fifty] SEVENTY-FIVE thousand
54 dollars for the period January first, two thousand eleven through March
55 thirty-first, two thousand eleven, less the amount of funds available

1 for allocations for rate adjustments for workforce training programs for
2 payments by state governmental agencies for inpatient hospital services.

3 S 31. Paragraphs (b), (c), (d) and (e) of subdivision 2 of section
4 2807-j of the public health law, as amended by section 41 of part B of
5 chapter 58 of the laws of 2005, are amended to read as follows:

6 (b) The total percentage allowance for each payor, other than govern-
7 mental agencies, or health maintenance organizations for services
8 provided to subscribers eligible for medical assistance pursuant to
9 title eleven of article five of the social services law, or approved
10 organizations for services provided to subscribers eligible for the
11 family health plus program pursuant to title eleven-D of article five of
12 the social services law, and other than payments for a patient that has
13 no third-party coverage in whole or in part for services provided by a
14 designated provider of services, shall be:

15 (i) the sum of (A) eight and eighteen-hundredths percent, provided,
16 however, that for services provided on and after July first, two thou-
17 sand three, the percentage shall be eight and eighty-five hundredths
18 percent, and further provided that for services provided on and after
19 January first, two thousand six, the percentage shall be eight and nine-
20 ty-five hundredths percent, AND FURTHER PROVIDED THAT FOR SERVICES
21 PROVIDED ON AND AFTER JANUARY FIRST, TWO THOUSAND NINE, THE PERCENTAGE
22 SHALL BE NINE AND SIXTY-THREE HUNDREDTHS PERCENT, plus (B) twenty-four
23 percent, provided, however, that for services provided on and after July
24 first, two thousand three, the percentage shall be twenty-five and nine-
25 ty-seven hundredths percent, and further provided that for services
26 provided on and after January first, two thousand six, the percentage
27 shall be twenty-six and twenty-six hundredths percent, AND FURTHER
28 PROVIDED THAT FOR SERVICES PROVIDED ON AND AFTER JANUARY FIRST, TWO
29 THOUSAND NINE, THE PERCENTAGE SHALL BE TWENTY-EIGHT AND TWENTY-SEVEN
30 HUNDREDTHS PERCENT, and plus (C) for a specified third-party payor as
31 defined in subdivision one-a of section twenty-eight hundred seven-s of
32 this article the percentage allowance applicable for a general hospital
33 for inpatient hospital services pursuant to subdivision two of section
34 twenty-eight hundred seven-s of this article;

35 (ii) unless (A) an election in accordance with paragraph (a) of subdi-
36 vision five of this section to pay the allowance directly to the commis-
37 sioner or the commissioner's designee is in effect for a third-party
38 payor, and in addition (B) for a specified third-party payor an election
39 to pay the assessment in accordance with section twenty-eight hundred
40 seven-t of this article is in effect.

41 (c) If an election in accordance with subdivision five of this section
42 is in effect for a third-party payor and in addition in accordance with
43 section twenty-eight hundred seven-t of this article for a specified
44 third-party payor, the total percentage allowance factor shall be
45 reduced to eight and eighteen-hundredths percent, provided, however,
46 that for services provided on and after July first, two thousand three
47 the total percentage allowance factor shall be reduced to eight and
48 eighty-five hundredths percent, and further provided that for services
49 provided on and after January first, two thousand six, the total
50 percentage allowance factor shall be reduced to eight and ninety-five
51 hundredths percent, AND FURTHER PROVIDED THAT FOR SERVICES PROVIDED ON
52 AND AFTER JANUARY FIRST, TWO THOUSAND NINE, THE TOTAL PERCENTAGE ALLOW-
53 ANCE FACTOR SHALL BE REDUCED TO NINE AND SIXTY-THREE HUNDREDTHS PERCENT.

54 (d) The total percentage allowance for payments by governmental agen-
55 cies, as determined in accordance with paragraphs (a) and (a-1) of
56 subdivision one of section twenty-eight hundred seven-c of this article

1 as in effect on December thirty-first, nineteen hundred ninety-six, or
2 health maintenance organizations for services provided to subscribers
3 eligible for medical assistance pursuant to title eleven of article five
4 of the social services law, or approved organizations for services
5 provided to subscribers eligible for the family health plus program
6 pursuant to title eleven-D of article five of the social services law,
7 shall be five and ninety-eight-hundredths percent, provided, however,
8 that for services provided on and after July first, two thousand three
9 the total percentage allowance shall be six and forty-seven hundredths
10 percent, and further provided that for services provided on and after
11 January first, two thousand six, the total percentage allowance shall be
12 six and fifty-four hundredths percent, AND FURTHER PROVIDED THAT FOR
13 SERVICES PROVIDED ON AND AFTER JANUARY FIRST, TWO THOUSAND NINE, THE
14 TOTAL PERCENTAGE ALLOWANCE SHALL BE SEVEN AND FOUR HUNDREDTHS PERCENT.

15 (e) The total percentage allowance for payments for services provided
16 by designated providers of services for which there is no third-party
17 coverage in whole or in part shall be eight and eighteen-hundredths
18 percent, provided, however, that for services provided on and after July
19 first, two thousand three the total percentage allowance shall be eight
20 and eighty-five hundredths percent, and further provided that for
21 services provided on and after January first, two thousand six, the
22 total percentage allowance shall be eight and ninety-five hundredths
23 percent, AND FURTHER PROVIDED THAT FOR SERVICES PROVIDED ON AND AFTER
24 JANUARY FIRST, TWO THOUSAND NINE, THE TOTAL PERCENTAGE ALLOWANCE SHALL
25 BE NINE AND SIXTY-THREE HUNDREDTHS PERCENT. This paragraph shall not
26 apply to patient deductibles and coinsurance amounts.

27 S 32. The opening paragraph of subdivision 1 and subdivision 3 of
28 section 367-s of the social services law, as amended by section 38 of
29 part C of chapter 58 of the laws of 2008, are amended to read as
30 follows:

31 Notwithstanding any provision of law to the contrary, a supplemental
32 medical assistance payment shall be made on an annual basis to providers
33 of emergency medical transportation services in an aggregate amount not
34 to exceed four million dollars for two thousand six, six million dollars
35 for two thousand seven and [six] THREE million dollars for two thousand
36 eight pursuant to the following methodology:

37 3. If all necessary approvals under federal law and regulation are not
38 obtained to receive federal financial participation in the payments
39 authorized by this section, payments under this section shall be made in
40 an aggregate amount not to exceed two million dollars for two thousand
41 six, three million dollars for two thousand seven and [three] ONE
42 million FIVE HUNDRED THOUSAND dollars for two thousand eight. In such
43 case, the multiplier set forth in paragraph (b) of subdivision one of
44 this section shall be deemed to be two million dollars [or], three
45 million dollars OR ONE MILLION FIVE HUNDRED THOUSAND DOLLARS as appli-
46 cable to the annual period.

47 S 33. Clause (A) of subparagraph (i) of paragraph (a) of subdivision
48 18 of section 2808 of the public health law, as amended by section 73-b
49 of part C of chapter 58 of the laws of 2008, is amended to read as
50 follows:

51 (A) fifty-three million five hundred thousand dollars on an annualized
52 basis for the period April first, two thousand two through December
53 thirty-first, two thousand two; eighty-three million three hundred thou-
54 sand dollars on an annualized basis for the period January first, two
55 thousand three through December thirty-first, two thousand three; one
56 hundred fifteen million eight hundred thousand dollars on an annualized

1 basis for the period January first, two thousand four through December
2 thirty-first, two thousand six; fifty-seven million nine hundred thou-
3 sand dollars for the period January first, two thousand seven through
4 June thirtieth, two thousand seven, fifty-seven million nine hundred
5 thousand dollars for the period July first, two thousand seven through
6 March thirty-first, two thousand eight, and [sixty-four] FIFTY-ONE
7 million [eight] SEVEN hundred thousand dollars for the period [April]
8 JANUARY first, two thousand [eight] NINE through March thirty-first, two
9 thousand nine and [twenty-six] THIRTEEN million [two] ONE hundred thou-
10 sand dollars for the period April first, two thousand nine through March
11 thirty-first, two thousand ten and each state fiscal year thereafter.

12 S 34. Paragraph (a) of subdivision 2 of section 364-j-2 of the social
13 services law, as amended by section 44-a of part C of chapter 58 of the
14 laws of 2008, is amended to read as follows:

15 (a) Notwithstanding paragraphs (b) and (h) of subdivision two of
16 section twenty-eight hundred seven of the public health law, the commis-
17 sioner of health shall make supplemental payments of nine million eight
18 hundred twenty-four thousand dollars (\$9,824,000), to covered providers
19 described in subdivision one of this section who are qualified providers
20 as described in paragraph (a) of subdivision three of this section,
21 based on adjustments to fee-for-service rates for the period February
22 first through March thirty-first, two thousand two and nine million
23 eight hundred twenty-four thousand dollars (\$9,824,000) for the period
24 October first through December thirty-first, two thousand two and four
25 million nine hundred twelve thousand dollars (\$4,912,000) for the period
26 October first through December thirty-first, two thousand three and an
27 additional amount of four million nine hundred twelve thousand dollars
28 (\$4,912,000) for the period October first through December thirty-first,
29 two thousand three and nine million eight hundred twenty-four thousand
30 dollars (\$9,824,000) for the period April first through June thirtieth,
31 two thousand five, and nine million eight hundred twenty-four thousand
32 dollars (\$9,824,000) for the period October first through December thir-
33 ty-first, two thousand six, and an additional nine million eight hundred
34 twenty-four thousand dollars (\$9,824,000) for the period October first
35 through December thirty-first, two thousand six, and nine million eight
36 hundred twenty-four thousand dollars (\$9,824,000) for the period October
37 first through December thirty-first, two thousand seven, as medical
38 assistance payments for services provided pursuant to this title for
39 persons eligible for federal financial participation under title XIX of
40 the federal social security act to reflect additional costs associated
41 with the transition to a managed care environment, and [nine] FOUR
42 million [eight] NINE hundred [twenty-four] TWELVE thousand dollars
43 ([\$9,824,000] \$4,912,000) for the period [October] DECEMBER first
44 through December thirty-first, two thousand eight, as medical assistance
45 payments for services provided pursuant to this title for persons eligi-
46 ble for federal financial participation under title XIX of the federal
47 social security act to reflect additional costs associated with the
48 operation of electronic health record systems that meet such standards
49 as may be established by the commissioner of health. There shall be no
50 local share in these payments. The director of the budget shall allocate
51 the non-federal share of such payments from an appropriation for the
52 miscellaneous special revenue fund - 339 community service provider
53 assistance program account for the two thousand one--two thousand two
54 state fiscal year for adjustments for the period February first through
55 March thirty-first, two thousand two. Adjustments for the period October
56 first, two thousand two through December thirty-first, two thousand two

1 shall be within amounts appropriated for the two thousand two--two thou-
2 sand three state fiscal year and adjustments for the period October
3 first, two thousand three through December thirty-first, two thousand
4 three shall be within amounts appropriated for the two thousand three--
5 two thousand four state fiscal year and adjustments for the non-federal
6 share of the additional amount of four million nine hundred twelve thou-
7 sand dollars (\$4,912,000) for such period shall be allocated by the
8 director of the budget from an appropriation for maintenance undistrib-
9 uted general fund community projects fund - 007 account for the two
10 thousand three--two thousand four state fiscal year. The director of the
11 budget shall allocate the non-federal share of adjustments for the peri-
12 od April first, two thousand five through June thirtieth, two thousand
13 five from an appropriation for the maintenance undistributed general
14 fund community projects fund - 007 - cc account for the two thousand
15 four--two thousand five state fiscal year. The director of the budget
16 shall allocate the non-federal share of adjustments for the period Octo-
17 ber first, two thousand six through December thirty-first, two thousand
18 six from an appropriation for the maintenance undistributed, general
19 fund, community projects fund - 007-cc account for the two thousand
20 five--two thousand six state fiscal year. The director of the budget
21 shall allocate the non-federal share of the additional adjustments for
22 the period October first, two thousand six through December thirty-
23 first, two thousand six from such funds as may be made available from an
24 appropriation for the maintenance undistributed, general fund, community
25 projects fund - 007-cc account for the two thousand six--two thousand
26 seven state fiscal year. The director of the budget shall allocate the
27 non-federal share of the adjustments for the period October first, two
28 thousand seven through December thirty-first, two thousand seven from an
29 appropriation for the medical assistance program, general fund, local
30 assistance account - 001 for the two thousand seven--two thousand eight
31 state fiscal year. The director of the budget shall allocate the non-
32 federal share of the adjustments for the period [October] DECEMBER
33 first, two thousand eight through December thirty-first, two thousand
34 eight from an appropriation for the medical assistance program, general
35 fund, local assistance account - 001 for the two thousand eight--two
36 thousand nine state fiscal year. Such adjustments to fee for service
37 rates shall not be subject to subsequent adjustment or reconciliation.
38 Alternatively, such payments may be made as aggregate payments to eligi-
39 ble providers.

40 S 35. Paragraph (b) of subdivision 11 of section 3614 of the public
41 health law, as amended by section 27-a of part C of chapter 58 of the
42 laws of 2008, is amended to read as follows:

43 (b) The commissioner shall increase the medical assistance rates of
44 payment pursuant to this subdivision in an amount up to an aggregate of
45 sixteen million dollars for the period June first, two thousand six
46 through March thirty-first, two thousand seven, and sixteen million
47 dollars for the period April first, two thousand seven through March
48 thirty-first, two thousand eight, and [sixteen] EIGHT million dollars
49 for the period [April] JANUARY first, two thousand [eight] NINE through
50 March thirty-first, two thousand nine, provided however that if federal
51 financial participation is not available for rate adjustments pursuant
52 to this subdivision such aggregate amount shall not exceed eight million
53 dollars AND FOR THE PERIOD JANUARY FIRST, TWO THOUSAND NINE THROUGH
54 MARCH THIRTY-FIRST, TWO THOUSAND NINE SHALL NOT EXCEED FOUR MILLION
55 DOLLARS, and provided, further, however, that for purposes of long term
56 home health care programs, such payments provided pursuant to this

1 subdivision shall be treated as supplemental payments and shall not
2 effect any current cost cap requirement.

3 S 36. Subdivision 6-a of section 93 of part C of chapter 58 of the
4 laws of 2007 amending the social services law and the public health law
5 relating to adjustments of rates, is amended to read as follows:

6 6-a. section fifty-seven of this act shall expire and be deemed
7 repealed on [March] DECEMBER 31, [2010] 2013; provided that THE AMEND-
8 MENTS MADE BY such section TO SUBDIVISION 4 OF SECTION 366-C OF THE
9 SOCIAL SERVICES LAW SHALL APPLY WITH RESPECT TO DETERMINING INITIAL AND
10 CONTINUING ELIGIBILITY FOR MEDICAL ASSISTANCE, INCLUDING THE CONTINUED
11 ELIGIBILITY OF RECIPIENTS ORIGINALLY DETERMINED ELIGIBLE PRIOR TO THE
12 EFFECTIVE DATE OF THIS ACT, AND PROVIDED FURTHER THAT SUCH AMENDMENTS
13 shall not apply to any person [as to whom] OR GROUP OF PERSONS IF IT IS
14 SUBSEQUENTLY DETERMINED BY THE CENTERS FOR MEDICARE AND MEDICAID
15 SERVICES OR BY A COURT OF COMPETENT JURISDICTION THAT MEDICAL ASSISTANCE
16 WITH federal financial participation is available for the costs of
17 services provided TO SUCH PERSON OR PERSONS under the provisions of
18 subdivision 4 of section 366-c of the social services law in effect
19 immediately prior to the effective date of this act.

20 S 37. Subdivision (m-1) of section 79 of part C of chapter 58 of the
21 laws of 2008 amending the social services law and the public health law
22 relating to adjustments of rates, is amended to read as follows:

23 (m-1) THE AMENDMENTS MADE BY section fifty-two of this act TO SUBDIVI-
24 SION 4 OF SECTION 366-C OF THE SOCIAL SERVICES LAW shall [not] apply
25 WITH RESPECT TO DETERMINING INITIAL AND CONTINUING ELIGIBILITY FOR
26 MEDICAL ASSISTANCE, INCLUDING THE CONTINUED ELIGIBILITY OF RECIPIENTS
27 ORIGINALLY DETERMINED ELIGIBLE PRIOR TO THE EFFECTIVE DATE OF THIS ACT;
28 AND PROVIDED FURTHER THAT SUCH AMENDMENTS SHALL NOT APPLY to any person
29 [as to whom] OR GROUP OF PERSONS IF IT IS SUBSEQUENTLY DETERMINED BY THE
30 CENTERS OF MEDICARE AND MEDICAID SERVICES OR BY A COURT COMPETENT JURIS-
31 DICTION THAT MEDICAL ASSISTANCE WITH federal financial participation is
32 available for the costs of services provided TO SUCH PERSON OR PERSONS
33 under the provisions of subdivision 4 of section 366-c of the social
34 services law in effect immediately prior to the effective date of this
35 act;

36 S 38. The closing paragraph of subdivision 4 of section 366-c of the
37 social services law amending the social services law and the public
38 health law relating to adjustments of rates, as amended by section 52 of
39 part C of chapter 58 of the laws of 2008, is amended to read as follows:
40 provided, however, that, to the extent required by federal law, the
41 terms of this subdivision shall not apply to persons who are receiving
42 care, services and supplies pursuant to the following waivers under
43 section 1915(c) of the federal social security act: the nursing facility
44 transition and diversion waiver authorized pursuant to subdivision six-a
45 of section three hundred sixty-six of this title; [and] the traumatic
46 brain injury waiver authorized pursuant to section twenty-seven hundred
47 forty of the public health law; THE LONG TERM HOME HEALTH CARE PROGRAM
48 WAIVER AUTHORIZED PURSUANT TO SECTION THREE HUNDRED SIXTY-SEVEN-C OF
49 THIS TITLE; AND THE HOME AND COMMUNITY BASED SERVICES WAIVER AUTHORIZED
50 PURSUANT TO SUBDIVISION SIX OF SECTION THREE HUNDRED SIXTY-SIX OF THIS
51 TITLE.

52 S 39. Notwithstanding any inconsistent provision of law, rule or regu-
53 lation, the effectiveness of subdivisions 4, 7, 7-a and 7-b of section
54 2807 of the public health law and section 18 of chapter 2 of the laws of
55 1988, as they relate to time frames for notice, approval or certifi-
56 cation of rates of payment, are hereby suspended and shall, for

1 purposes of implementing the provisions of this act, be deemed to have
2 been without any force or effect from and after November 1, 2008 for
3 such rates effective for the period December 1, 2008 through December
4 31, 2009.

5 S 40. This act shall take effect immediately; provided that section
6 one of this act shall take effect May 1, 2009; provided further that
7 sections two and three of this act shall take effect March 1, 2009;
8 provided further that amendments to subdivision 12 of section 272 of the
9 public health law made by section one of this act shall not affect the
10 repeal of such section and shall be deemed repealed therewith; provided
11 further that the amendments to the opening paragraph of subdivision 7 of
12 section 3614 of the public health law made by section twelve of this act
13 shall not affect the expiration of such paragraph and shall expire and
14 be deemed repealed therewith; provided further that the amendments to
15 section 2807-s of the public health law made by sections fifteen and
16 twenty-nine of this act shall not affect the expiration of such section
17 and shall expire therewith; provided further that the amendments to
18 section 2807-j of the public health law made by section thirty-one of
19 this act shall not affect the expiration of such section and shall
20 expire therewith; provided further that the amendments to the closing
21 paragraph of subdivision 4 of section 366-c of the social services law,
22 made by section thirty-eight of this act, shall not affect the expira-
23 tion and repeal of such subdivision, and shall expire and be deemed
24 repealed therewith; provided, further, that the amendments to the clos-
25 ing paragraph of subdivision 4 of section 366-c of the social services
26 law made by section thirty-eight of this act shall apply with respect to
27 determining initial and continuing eligibility for medical assistance,
28 including the continued eligibility of recipients originally determined
29 eligible prior to the effective date of this act; and provided further
30 that such changes shall not apply to any person or group of persons if
31 it is subsequently determined by the Centers for Medicare and Medicaid
32 services or a court of competent jurisdiction that medical assistance
33 with federal financial participation is available for the cost of
34 services provided to such person or persons under the provisions of
35 subdivision 4 of section 366-c of the social services law in effect
36 immediately prior to the effective date of this act.

37

PART H

38 Section 1. Notwithstanding any law to the contrary, the banking
39 department shall finance the annual expenses related to its activities
40 and operations through assessments on all regulated entities of the
41 department. The total value of the annual assessment will be equal to
42 the total value of the department's enacted appropriations. In such
43 instances where the total value of the annual industry assessment
44 exceeds the actual annual expenses of the department's operations and
45 activities, in accordance with section 4 of the state finance law, the
46 comptroller is hereby authorized and directed to transfer, at the
47 request of the director of the budget, up to \$6 million from the unen-
48 cumbered balance of the banking department account (339.A5) to the
49 general fund in state fiscal year 2008-09.

50 S 2. Subdivision 1 of section 17 of the banking law, as amended by
51 section 2 of part 0 of chapter 59 of the laws of 2006, is amended to
52 read as follows:

53 1. [All expenses,] FOR PURPOSES OF THIS SECTION ALL EXPENSES OF THE
54 DEPARTMENT SHALL INCLUDE ALL APPROPRIATIONS WHETHER ADMINISTERED BY THE

1 DEPARTMENT OR SUBALLOCATED TO ANOTHER STATE DEPARTMENT BOARD OR AGENCY
2 including the compensation of officers and employees of the department,
3 incurred in and about the conduct of the business of the department,
4 except expenses incurred in the liquidation of banking organizations,
5 including compensation of officers and employees engaged primarily in
6 such liquidation, shall be paid out of the state treasury on the certifi-
7 cate of the superintendent [upon the audit and warrant of the comp-
8 troller]. The state treasury shall be reimbursed by payments thereto by
9 the superintendent of fees and assessments collected by him or her in
10 accordance with this section.

11 S 3. This act shall take effect immediately.

12

PART I

13 Section 1. Notwithstanding any law to the contrary, the insurance
14 department shall finance the annual expenses related to its activities
15 and operations through assessments on all regulated entities of the
16 department. The total value of the annual assessment will be equal to
17 the total value of the department's enacted appropriations. In such
18 instances where the total value of the annual industry assessment
19 exceeds the actual annual expenses of the department's operations and
20 activities, in accordance with section 4 of the state finance law, the
21 comptroller is hereby authorized and directed to transfer, at the
22 request of the director of the budget, up to \$4.5 million from the unen-
23 cumbered balance of the insurance department account (339.B6) to the
24 general fund in state fiscal year 2008-09.

25 S 2. This act shall take effect immediately.

26

PART J

27 Section 1. Section 64 of the executive law is amended to read as
28 follows:

29 S 64. Costs recovered. Costs recovered by the attorney-general may be
30 applied by him in payment of the expenses incurred by him in the action
31 or proceeding in which they are received, or of any expenditure which he
32 is authorized to incur not otherwise provided for. He shall, at the
33 close of each fiscal year, render to the comptroller an account of such
34 costs received, with vouchers of such expenditures. DURING THE FISCAL
35 YEAR, THE COMPTROLLER IS AUTHORIZED TO TRANSFER ANY AMOUNT AVAILABLE
36 WITHIN THE ACCOUNT DEDICATED FOR THIS PURPOSE TO THE GENERAL FUND, UPON
37 THE REQUEST OF THE DIRECTOR OF THE BUDGET. IN THE EVENT INSUFFICIENT
38 CASH REMAINS IN SUCH ACCOUNT TO MEET EXPENDITURES AGAINST AVAILABLE
39 APPROPRIATIONS FROM SUCH ACCOUNT, THE COMPTROLLER IS AUTHORIZED TO
40 TRANSFER THE AMOUNTS NECESSARY TO MEET SUCH EXPENDITURES FROM THE GENER-
41 AL FUND; PROVIDED HOWEVER THAT IN NO EVENT SHALL THE CUMULATIVE VALUE OF
42 ANY SUCH TRANSFERS FROM THE GENERAL FUND MADE TO SUCH ACCOUNT WITHIN A
43 SINGLE FISCAL YEAR EXCEED TEN PERCENT OF THE VALUE OF THE APPROPRIATIONS
44 MADE IN SUCH FISCAL YEAR FROM SUCH ACCOUNT OR THE CUMULATIVE BALANCE OF
45 TRANSFERS FROM THE ACCOUNT TO THE GENERAL FUND. THE COMPTROLLER SHALL
46 ESTABLISH SUCH ACCOUNTS AND RECORDS AS ARE NECESSARY TO PROVIDE AN ACCU-
47 RATE ACCOUNTING AND REPORTING OF THE TRANSFERS TO OR FROM THE GENERAL
48 FUND.

49 S 2. This act shall take effect immediately.

50

PART K

1 Section 1. Subparagraph 4 of paragraph (h) of subdivision 8 of section
2 15 of the workers' compensation law, as amended by chapter 139 of the
3 laws of 2008, is amended to read as follows:

4 (4) As soon as practicable after May first in the year nineteen
5 hundred fifty-eight, and annually thereafter as soon as practicable
6 after January first in each succeeding year, the chair of the board
7 shall assess upon and collect from all self-insurers, except group self-
8 insurers, the state insurance fund, all insurance carriers and group
9 self-insurers, (A) a sum equal to one hundred fifty per centum of the
10 total disbursements made from the special disability fund during the
11 preceding calendar year (not including any disbursements made on account
12 of anticipated liabilities or waiver agreements funded by bond proceeds
13 and related earnings), less the amount of the net assets in such fund as
14 of December thirty-first of said preceding calendar year, and (B) a sum
15 sufficient to cover debt service, and associated costs (the "debt
16 service assessment") to be paid during the calendar year by the dormito-
17 ry authority, as calculated in accordance with subparagraph five of this
18 paragraph. Such assessments shall be allocated to (i) self-insurers
19 except group self-insurers and the state insurance fund based upon the
20 proportion that the total compensation payments made by all self-insur-
21 ers except group self-insurers and the state insurance fund bore to the
22 total compensation payments made by all self-insurers except group self-
23 insurers, the state insurance fund, all insurance carriers and group
24 self-insurers, (ii) insurance carriers based upon the proportion that
25 the total compensation payments made by all insurance carriers bore to
26 the total compensation payments by all self-insurers except group self-
27 insurers, the state insurance fund and all insurance carriers and group
28 self-insurers during the fiscal year which ended within said preceding
29 calendar year, and (iii) group self-insurers based upon the proportion
30 that the total compensation payments made by all group self-insurers
31 bore to the total compensation payments made by all self-insurers, the
32 state insurance fund and all insurance carriers during the fiscal year
33 which ended within said preceding calendar year. Insurance carriers and
34 self-insurers shall be liable for all such assessments regardless of the
35 date on which they came into existence, or whether they have made any
36 claim for reimbursement from the special disability fund. The portion of
37 such sum allocated to self-insurers except group self-insurers and the
38 state insurance fund that shall be collected from each self-insurer
39 except a group self-insurer and the state insurance fund shall be a sum
40 equal to the proportion of the amount which the total compensation
41 payments of each such self-insurer except a group self-insurer or the
42 state insurance fund bore to the total compensation payments made by all
43 self-insurers except group self-insurers and the state insurance fund
44 during the fiscal year which ended within said preceding calendar year.
45 The portion of such sum allocated to insurance carriers that shall be
46 collected from each insurance carrier shall be a sum equal to that
47 proportion of the amount which the total [premiums written] STANDARD
48 PREMIUM by each such insurance carrier bore to the total [written premi-
49 ums] STANDARD PREMIUM reported by all insurance carriers during the
50 [fiscal] CALENDAR year which ended within said preceding [calendar]
51 FISCAL year. The portion of such sum allocated to group self-insurers
52 that shall be collected from each group self-insurer shall be a sum
53 equal to that proportion of the amount which the pure premium calcu-
54 lation for each such group self-insurer bore to the total pure premium
55 calculation for all group self-insurers for the calendar year which
56 ended within the preceding state fiscal year. The payments from the debt

1 service assessment, unless otherwise set forth in the special disability
2 fund financing agreement, are hereby pledged therefor and shall be
3 deemed the first monies received on account of assessments in each year.
4 For the purposes of this paragraph, ["direct premiums written" means
5 gross premiums, including policy and membership fees, less return premi-
6 ums and premiums on policies not taken] "STANDARD PREMIUM" SHALL MEAN
7 THE PREMIUM AS DEFINED FOR THE PURPOSES OF THIS ASSESSMENT BY THE SUPER-
8 INTENDENT OF INSURANCE, IN CONSULTATION WITH THE CHAIR OF THE BOARD AND
9 THE WORKERS' COMPENSATION RATING BOARD. For purposes of this paragraph
10 "pure premium calculation" means the New York state annual payroll as of
11 December thirty-first of the preceding year by class code for each
12 employer member of a group self-insurer multiplied by the applicable
13 loss cost for each class code as determined by the workers' compensation
14 rating board in effect on December thirty-first of the preceding year,
15 and for a group or individual self-insurer who has ceased to self-insure
16 shall be based on payroll at the time the group or individual self-in-
17 surer ceased to self-insure reduced by a factor reflecting the reduction
18 in the group or individual self-insurer's self-insurance liabilities
19 since ceasing to self-insure. An employer who has ceased to be a self-
20 insurer or a group that ceases to be licensed as a group self-insurer
21 shall continue to be liable for any assessments into said fund on
22 account of any compensation payments made by him or her on his or her
23 account during such fiscal year, and the security fund, created under
24 the provisions of section one hundred seven of this chapter, shall, in
25 the event of the insolvency of any insurance company, be liable for any
26 assessments that would have been made against such company except for
27 its insolvency. No assessment shall be payable from the aggregate trust
28 fund, created under the provisions of section twenty-seven of this arti-
29 cle, but such fund shall continue to be liable for all compensation that
30 shall be payable under any award or order of the board, the commuted
31 value of which has been paid into such fund. Such assessments when
32 collected shall be deposited with the commissioner of taxation and
33 finance for the benefit of such fund. Unless otherwise provided, such
34 assessments, shall not constitute an element of loss for the purpose of
35 establishing rates for compensation insurance but shall for the purpose
36 of collection be treated as separate costs by carriers. All insurance
37 carriers and the state insurance fund, shall collect such assessments,
38 from their policyholders through a surcharge based on premiums in
39 accordance with rules set forth by THE SUPERINTENDENT OF INSURANCE IN
40 CONSULTATION WITH the New York workers' compensation rating board[, as
41 approved by the superintendent of insurance] AND THE CHAIR OF THE BOARD.
42 Such surcharge shall be considered as part of premium for purposes
43 prescribed by law including, but not limited to, computing premium tax,
44 reporting to the superintendent of insurance pursuant to section nine-
45 ty-nine of this chapter and section three hundred seven of the insurance
46 law, determining the limitation of expenditures for the administration
47 of the state insurance fund pursuant to section eighty-eight of this
48 chapter and the cancellation by an insurance carrier, including the
49 state insurance fund, of a policy for non-payment of premium. The
50 provisions of this paragraph shall not apply with respect to policies
51 containing coverage pursuant to subsection (j) of section three thousand
52 four hundred twenty of the insurance law relating to every policy
53 providing comprehensive personal liability insurance on a one, two,
54 three or four family owner-occupied dwelling. The state insurance fund
55 shall, notify its insureds that such assessments, shall be, for the
56 purpose of recoupment, treated as separate costs, respectively for the

1 purpose of premiums billed on or after October first, nineteen hundred
2 ninety-four.

3 For the purposes of this paragraph, except as otherwise provided: the
4 term "insurance carrier" shall include only stock corporations, mutual
5 corporations and reciprocal insurers authorized to transact the business
6 of workers' compensation insurance in this state; the term "self-insur-
7 er" shall include any employer or group of employers permitted to pay
8 compensation directly under the provisions of subdivision three, three-a
9 or four of section fifty of this chapter[;].

10 THE BOARD IS HEREBY AUTHORIZED TO ISSUE CREDITS OR REFUNDS AS NECES-
11 SARY, IN THE CASE OF OVERPAYMENTS MADE TO THE FUND. AN INSURANCE CARRIER
12 THAT KNOWINGLY UNDERREPORTS PREMIUMS FOR THE PURPOSES OF THIS SECTION
13 SHALL BE GUILTY OF A CLASS E FELONY.

14 S 2. Paragraph (b) of subdivision 2 of section 151 of the workers'
15 compensation law, as amended by chapter 6 of the laws of 2007, the open-
16 ing paragraph as amended by chapter 139 of the laws of 2008, is amended
17 to read as follows:

18 (b) An itemized statement of the expenses so ascertained shall be open
19 to public inspection in the office of the board for thirty days after
20 notice to the state insurance fund, all insurance carriers and all self-
21 insurers including group self-insurers affected thereby, before the
22 board shall make an assessment for such expenses. The chair shall assess
23 upon and collect a proportion of such expenses as hereinafter provided
24 from each insurance carrier, the state insurance fund and each self-in-
25 surer including group self-insurers. The assessment for such expenses
26 shall be allocated to (i) self-insurers except group self-insurers and
27 the state insurance fund based upon the proportion that the total
28 compensation payments made by all self-insurers except group self-insur-
29 ers and the state insurance fund in such year bore to the total compen-
30 sation payments made by all self-insurers except group self-insurers,
31 the state insurance fund, all insurance carriers and group self-insurers
32 and (ii) insurance carriers based upon the proportion that the total
33 compensation payments made by all insurance carriers in such year bore
34 to the total compensation payments by all self-insurers, the state
35 insurance fund and all insurance carriers [during the fiscal year which
36 ended within said preceding calendar year], and (iii) group self-insur-
37 ers based upon the proportion that the total compensation payments made
38 by all group self-insurers IN SUCH YEAR bore to the total compensation
39 payments made by all self-insurers, the state insurance fund and all
40 insurance carriers [during the fiscal year which ended within said
41 preceding calendar year]. The portion of the assessment for such
42 expenses allocated to self-insurers except group self-insurers and the
43 state insurance fund that shall be collected from each self-insurer
44 except group self-insurers and the state insurance fund shall be a sum
45 equal to the proportion of the amount which the total compensation
46 payments of each such self-insurer except a group self-insurer or the
47 state insurance fund in such year bore to the total compensation
48 payments made by all self-insurers except group self-insurers and the
49 state insurance fund. The portion of the assessment for such expenses
50 allocated to insurance carriers that shall be collected from each such
51 insurance carrier shall be a sum equal to that proportion of the amount
52 which the total [premiums written] STANDARD PREMIUM by each such insur-
53 ance carrier [in such year] bore to the total [written premiums] STAND-
54 ARD PREMIUM reported by all insurance carriers FOR THE CALENDAR YEAR
55 WHICH ENDED WITH THE STATE FISCAL YEAR. The portion of such sum allo-
56 cated to group self-insurers that shall be collected from each group

1 self-insurer shall be a sum equal to that proportion of the amount which
2 the pure premium calculation for each such group self-insurer bore to
3 the total pure premium calculation for all group self-insurers for the
4 calendar year which ended within the [preceding] state fiscal year. The
5 amounts so secured shall be used for the payment of the expenses of
6 administering this chapter. Pure premium for assessments against indi-
7 vidual and group self-insurers who ceased to self-insure shall be based
8 on payroll at the time the individual or group self-insurer has ceased
9 to self-insure, reduced by a factor reflecting the reduction in the
10 group or individual self-insurer's self-insurance liabilities since
11 ceasing to self-insure.

12 For purposes of this paragraph, ["direct premiums written" means gross
13 premiums, including policy and membership fees, less return premiums and
14 premiums on policies not taken] "STANDARD PREMIUM" SHALL MEAN THE PREMI-
15 UM AS DEFINED FOR THE PURPOSES OF THIS ASSESSMENT BY THE SUPERINTENDENT
16 OF INSURANCE, IN CONSULTATION WITH THE CHAIR OF THE BOARD AND THE WORK-
17 ERS' COMPENSATION RATING BOARD. For purposes of this paragraph "pure
18 premium calculation" means the New York state annual payroll as of
19 December thirty-first of the preceding year by class code for each
20 employer member of a group self-insurer multiplied by the applicable
21 rate for each class code as determined by the workers' compensation
22 rating board in effect on December thirty-first of the preceding year.
23 The amounts so secured shall be used for the payment of the expenses of
24 administering this chapter.

25 For the purposes of this paragraph, the term "insurance carrier" shall
26 include only stock corporations, mutual corporations and reciprocal
27 insurers authorized to transact the business of workers' compensation
28 insurance in this state and the term "self-insurer" shall include any
29 employer or group of employers permitted to pay compensation directly
30 under the provisions of subdivision three, three-a or four of section
31 fifty of this chapter.

32 S 3. (a) For purposes of this section, "insurance carrier," and "work-
33 ers' compensation rating board" shall have the meaning set forth in
34 section 2 of the workers' compensation law, and "affected insurance
35 carrier" shall mean any insurance carrier that has, prior to the effec-
36 tive date of this section: (1) paid to the workers' compensation board
37 for any year an amount directed by the workers' compensation board under
38 subdivision 8 of section 15, subdivision 3 of section 25 or section 151
39 of the workers' compensation law that was less than the amount collected
40 from its insured employers in that year, in accordance with a calcu-
41 lation provided by the workers' compensation rating board, (2) has iden-
42 tified any funds collected but not paid to the workers' compensation
43 board, as measurable and available, as of November 1, 2008.

44 (b) Any affected insurance carrier shall notify the chair of the work-
45 ers' compensation board, within thirty days of the effective date of
46 this subdivision, of the amount of funds it has held as measurable and
47 available under subdivision (a) of this section. The chair of the work-
48 ers' compensation board may, at any time within one hundred twenty days
49 of the effective date of this subdivision, or at any time thereafter if
50 the insurance carrier has not provided the notification required by this
51 section, direct an affected insurance carrier to pay such funds to the
52 board within thirty days if they are attributable to assessments in
53 fiscal year 2006 or before, and as soon as practicable thereafter if
54 they are attributable to subsequent assessments. Such funds shall be
55 credited to the workers' compensation account and shall be reserved in
56 the first instance for expenditure pursuant to a multi-year plan,

1 prepared by the chair, to improve the quality, timeliness and fairness
2 of services performed by the board, including any services funded by
3 assessments under the workers' compensation law. Such plan must be
4 approved by the director of the budget, and expenditures pursuant to
5 such plan may equal up to ten percent of the 2008-09 appropriations made
6 to the workers' compensation board, excluding contingency appropri-
7 ations. As a part of such plan, the chair of the workers' compensation
8 board may recommend suballocations of the funds credited to the workers'
9 compensation account under this subdivision to the department of labor
10 for any other purposes funded by assessments made under the workers'
11 compensation law, or for the implementation of chapter 6 of the laws of
12 2007, including for implementation of section 134 and subdivision 1 of
13 section 35 of the workers' compensation law. Such suballocations shall
14 be included within the total allowable expenditures under the plan and
15 must also be approved by the director of the budget. Any amounts avail-
16 able in any fiscal year after deducting amounts reflecting expenditures
17 to be made by the workers' compensation board for that fiscal year under
18 the plan provided for by this section shall be transferred by the comp-
19 troller to the general fund, at the request of the director of the budg-
20 et.

21 (c) Any affected insurance carrier that makes payments to the workers'
22 compensation board in accordance with this section shall not be subject
23 to any civil or criminal liability for damages arising out of the
24 collection or maintenance of any such funds under subdivision 8 of
25 section 15, subdivision 3 of section 25-a or section 151 of the workers'
26 compensation law. Nothing in this section shall be deemed to impose any
27 civil or criminal liability on any other entity, including any insurance
28 carrier, the workers' compensation board, or the state of New York.

29 S 4. This act shall take effect immediately, provided that sections
30 one and two of this act shall take effect on January 1, 2010.

31 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
32 sion, section or part of this act shall be adjudged by any court of
33 competent jurisdiction to be invalid, such judgment shall not affect,
34 impair, or invalidate the remainder thereof, but shall be confined in
35 its operation to the clause, sentence, paragraph, subdivision, section
36 or part thereof directly involved in the controversy in which such judg-
37 ment shall have been rendered. It is hereby declared to be the intent of
38 the legislature that this act would have been enacted even if such
39 invalid provisions had not been included herein.

40 S 3. This act shall take effect immediately provided, however, that
41 the applicable effective date of Parts A through K of this act shall be
42 as specifically set forth in the last section of such Parts.