STATE OF NEW YORK

S. 15 A. 15

Twentieth Extraordinary Session

SENATE - ASSEMBLY

November 25, 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 authorizing the commissioner of taxation and finance to administer an accounts receivable discount program with respect to certain overdue tax liabilities (Part A); to amend the education law, the general municipal law and chapter 57 of the laws of 2009 amending the education law and other laws relating to special apportionment for salary expenses, in relation to creating the gap elimination adjustment (Part B); to amend the education law, in relation to reducing tuition award amounts for the tuition assistance program (Part C); to amend the social services law, in relation to the standards of monthly need for the aged, blind, and disabled persons (Part D); to amend the insurance law, in relation to state funding of expenses associated with mental health parity coverage mandated for small business group health insurance plans (Part E); to amend the public authorities law, in relation to authorizing the battery park city authority to make contributions to the state treasury (Part F); to amend the public health law and chapter 109 of the laws of 2006, amending the social services law and other laws relating to Medicaid reimbursement rate settings, in relation to establishing a workgroup pertaining to Medicaid reimbursement rate-setting for residential health care facilities for future periods and providing for periodic reports by such group; and relating to the reduction of certain payments under the medical assistance program and notification timeframes (Part G); and to amend chapter 56 of the laws of 2009 relating to providing for the administration of certain funds and accounts related to the 2009-10 budget, in relation to authorizing the state comptroller to transfer certain monies to the general fund (Part H)

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

LBD12146-03-9

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2009-2010 state fiscal year. Each component is wholly contained within a Part identified as Parts A through H. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. (a) Notwithstanding the provisions of any other law to the contrary, there is hereby established an accounts receivable discount program as described in this section, to be administered by the commissioner of taxation and finance, and to be effective for the period prescribed by such commissioner, for all eligible taxpayers as described in this section owing any tax, fee, or surcharge imposed or formerly imposed by, or authorized under, the tax law, and administered by the commissioner of taxation and finance.

(b) For purposes of the accounts receivable discount program, an eligible taxpayer is an individual, partnership, estate, trust, corporation, limited liability company, joint stock company, or any other company, trustee, receiver, assignee, referee, society, association, business or any other person as described in the tax law, who or which has a tax liability with regard to one or more taxes, fees or surcharges that meet the conditions described in this section. However, a taxpayer who or that has been convicted of crime under the tax law or the penal law, and who or that is subject to a court order to pay a tax liability as a result of that conviction, is not eligible to participate in this program.

(c) For purposes of the accounts receivable discount program, an eligible tax liability is one that has become fixed and final, and for which an assessment or final determination was issued on or before December 31, 2006. An eligible tax liability shall not include an assessment or final determination that includes any of the following: (1) any fraud penalty imposed under the tax law; (2) a penalty imposed under section 11 of part N of chapter 61 of the laws of 2005; (3) a penalty imposed under subsection (e), (g), (p), (p-1), (r), (x), (y), (z), (aa) or (bb) of section 685 of the tax law; or (4) a penalty imposed under subsection (f), (k), (k-1), (l), (p), (q), (r), (s) or (t) of section 1085 of the tax law.

(d) The amount due under the accounts receivable discount program for an eligible tax liability for which an assessment or final determination was issued after December 31, 2003 and on or before December 31, 2006 must include the underlying tax liability and fifty percent of the accrued interest and penalty (including the additional rate of interest prescribed under section 1145 of the tax law, referred to in this section as "interest penalty"). The amount due under this program for an eligible tax liability for which an assessment or final determination was issued on or before December 31, 2003 must include the underlying tax liability and twenty percent of the accrued interest and penalty (including interest penalty).

(e) The commissioner of taxation and finance shall identify the assessments and final determinations with tax liabilities eligible for the accounts receivable discount program described in this section, compute the total amount of tax, interest, and penalty due under the accounts receivable discount program on each such assessment or final determination, and notify eligible taxpayers of the amount due under this program for each such assessment or final determination. The discount of a percentage of interest and penalty described in this section will not be granted to any taxpayer for any such assessment or final determination unless the taxpayer pays in full the amount due under this program for that assessment or final determination on or before the date prescribed by the commissioner.

(f) Under the accounts receivable discount program, payment will be made by eligible taxpayers with eligible tax liabilities in the form and manner prescribed by the commissioner of taxation and finance. Upon payment in full by the date prescribed by the commissioner of taxation and finance of the amount due under the accounts receivable discount program for an eligible tax liability, the taxpayer's liability for that assessment or final determination will be deemed to be paid in full. Failure to pay the full amount due under this program by the date prescribed by the commissioner of taxation and finance will disqualify an eligible tax liability from receiving the discount of interest and penalty described in this section.

(g) No refund will be granted or credit allowed with respect to any penalty or interest paid prior to the time the taxpayer participates in the accounts receivable discount program.

(h) No refund will be granted or credit allowed with respect to any tax liability, including any applicable interest or penalty, paid under the accounts receivable discount program.

(i) If an eligible taxpayer has entered into an installment payment agreement that applies to an eligible tax liability, the taxpayer may participate in the accounts receivable discount program with respect to that liability, if the taxpayer pays the amount due under the accounts receivable discount program in full by the date prescribed by the commissioner of taxation and finance.

S 2. This act shall take effect immediately.

PART B

Section 1. The education law is amended by adding a new section 308-a to read as follows:

S 308-A. SPECIAL PROVISIONS; MANDATES. 1. AS USED IN THIS SECTION, "MANDATE" MEANS (A) ANY STATE LAW, RULE OR REGULATION WHICH CREATES A NEW PROGRAM OR REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A SCHOOL DISTRICT, ORGANIZED EITHER BY SPECIAL LAWS OR PURSUANT TO THE PROVISIONS OF A GENERAL LAW, IS REQUIRED TO PROVIDE, OR

(B) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL DISTRICT IS REQUIRED TO PROVIDE.

2. IN THE EVENT THAT A MANDATE WHICH IMPOSES A COST UPON A SCHOOL DISTRICT IS CREATED AFTER THE ADOPTION OF A SCHOOL BUDGET, SUCH MANDATE SHALL BE IMPLEMENTED NO SOONER THAN THE FOLLOWING YEAR FOR WHICH SUCH SCHOOL BUDGET WAS ADOPTED.

3. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, SUCH A MANDATE CAN BE IMPOSED IF:

(A) THE MANDATE IS PROVIDED AT THE OPTION OF THE SCHOOL DISTRICT UNDER A LAW, REGULATION, RULE OR ORDER THAT IS PERMISSIVE RATHER THAN MANDATORY;

(B) THE MANDATE IS REQUIRED BY, OR ARISES FROM, AN EXECUTIVE ORDER OF THE GOVERNOR EXERCISING HIS OR HER EMERGENCY POWERS; OR

(C) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLEMENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR EXECUTIVE ORDER IMPOSES COSTS WHICH EXCEED THE COSTS MANDATED BY THE FEDERAL GOVERNMENT.

S 2. Subdivision 1 of section 3609-a of the education law is amended by adding a new paragraph d to read as follows:

D. GAP ELIMINATION ADJUSTMENT AND SUPPLEMENTAL DEFICIT REDUCTION ASSESSMENT FOR TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE STATE COMPTROLLER SHALL REDUCE PAYMENTS DUE TO EACH DISTRICT FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR PURSUANT TO THIS SECTION BY AN AMOUNT EQUAL TO THE GAP ELIMINATION ADJUSTMENT AND SUPPLEMENTAL DEFICIT REDUCTION ASSESSMENT COMPUTED FOR SUCH DISTRICT, AND SUCH AMOUNT SHALL BE DEDUCTED FROM MONEYS APPORTIONED FOR THE PURPOSES OF PAYMENTS MADE PURSUANT TO THIS SECTION AND IF THE REDUCTION IS GREATER THAN THE SUM OF THE AMOUNTS AVAILABLE FOR SUCH DEDUCTIONS, THE REMAINDER OF THE REDUCTION SHALL BE WITHHELD FROM PAYMENTS SCHEDULED TO BE MADE TO THE DISTRICT PURSUANT TO THIS SECTION FOR THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEAR, AND PROVIDED FURTHER THAT AN AMOUNT EQUAL TO THE AMOUNT OF SUCH DEDUCTION SHALL BE DEEMED TO HAVE BEEN PAID TO THE DISTRICT PURSUANT TO THIS SECTION FOR THE SCHOOL YEAR IN WHICH SUCH DEDUCTION IS MADE. THE COMMISSIONER SHALL COMPUTE SUCH GAP ELIMINATION ADJUSTMENT AND SUPPLEMENTAL DEFICIT REDUCTION ASSESSMENT AND SHALL PROVIDE A SCHEDULE OF SUCH REDUCTION IN PAYMENTS TO THE STATE COMPTROLLER, THE DIRECTOR OF THE BUDGET, THE CHAIR OF THE SENATE FINANCE COMMITTEE AND THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE.

(2) THE GAP ELIMINATION ADJUSTMENT FOR TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR SHALL BE THE PRODUCT OF THE TOTAL AID FOR ADJUSTMENT, MULTIPLIED BY ONE AND FIVE HUNDRED EIGHTY-TWO ONE-THOUSANDTHS OF A PERCENT (0.01582). FOR THE PURPOSES OF SUCH COMPUTATION, "TOTAL AID FOR ADJUSTMENT" SHALL MEAN THE SUM OF THE AMOUNTS SET FORTH FOR EACH SCHOOL DISTRICT AS "2009-10 FORMULA TOTAL" UNDER THE HEADING "2009-10 BASE YEAR AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF A CHAPTER OF THE LAWS OF TWO THOUSAND NINE ENACTING SUCH GAP ELIMINATION ADJUSTMENT.

(3) THE SUPPLEMENTAL DEFICIT REDUCTION ASSESSMENT SHALL BE COMPUTED AS THE PRODUCT OF THIRTY-FIVE AND SIXTY-TWO ONE-HUNDREDTHS OF A PERCENT (0.3562) MULTIPLIED BY THE ABSOLUTE VALUE OF THE DEFICIT REDUCTION ASSESSMENT ESTABLISHED PURSUANT TO PARAGRAPH C OF THIS SUBDIVISION.

S 3. Supplemental deficit reduction assessment restoration. Notwithstanding any other provision of law to the contrary, apportionments from this section shall be supported from funds appropriated for such purpose from the state fiscal stabilization fund-education fund as funded by the American recovery and reinvestment act of 2009. For the purposes of this section the term "fiscal year", followed by a reference to a year shall mean the period from July first of the preceding year to June thirtieth of the calendar year referenced.

Funds shall be apportioned to each school district in an amount equal to the supplemental deficit reduction assessment computed pursuant to subparagraph 3 of paragraph d of subdivision 1 of section 3609-a of the education law.

Each district shall be eligible, pursuant to applicable federal rules, regulations and guidelines, for a payment for the 2009-2010 school year of up to seventy percent (0.7) of such funds on or after the effective date of this act and up to an additional thirty percent (0.3) of such funds on or after April 1, 2010.

S 4. Paragraph e of subdivision 1 of section 211-d of the education law, as added by section 2-a of part A of chapter 57 of the laws of 2009, is amended to read as follows:

e. Notwithstanding paragraphs a and b of this subdivision, a school district that submitted a contract for excellence for the two thousand eight--two thousand nine school year shall submit a contract for excellence for the two thousand nine--two thousand ten school year in conformity with the requirements of subparagraph (vi) of paragraph a of subdivision two of this section unless all schools in the district are identified as in good standing. PROVIDED, HOWEVER, NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, THE AMOUNT TO BE EXPENDED ON APPROVED PROGRAMS AND ACTIVITIES IN SUCH CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR SHALL BE NOT LESS THAN THE PRODUCT OF THE AMOUNT APPROVED BY THE COMMISSIONER IN THE DISTRICT'S CONTRACT FOR EXCELLENCE FOR THE BASE YEAR, MULTIPLIED BY THE DISTRICT'S "GAP ELIMINATION ADJUSTMENT PERCENTAGE". FOR PURPOSES OF THIS PARAGRAPH, THE "GAP ELIMINATION ADJUSTMENT PERCENTAGE" SHALL BE CALCULATED AS THE SUM OF ONE MINUS THE QUOTIENT OF THE SCHOOL DISTRICT'S "GAP ELIMINATION ADJUSTMENT" AS COMPUTED PURSUANT TO PARAGRAPH D OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED NINE-A OF THIS CHAPTER DIVIDED BY THE TOTAL AID FOR ADJUSTMENT COMPUTED PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH D OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED NINE-A OF THIS CHAPTER.

S 5. Section 6-p of the general municipal law is amended by adding a new subdivision 10 to read as follows:

10. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE GOVERNING BOARD OF A SCHOOL DISTRICT MAY, DURING THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR, AUTHORIZE A WITHDRAWAL FROM THIS FUND IN AN AMOUNT NOT TO EXCEED THE LESSER OF: (A) THE DOLLAR VALUE OF EXCESS FUNDING IN THE FUND AS DETERMINED BY THE COMPTROLLER PURSUANT TO SECTION THIRTY-THREE OF THIS CHAPTER OR (B) THE AMOUNT OF THE SCHOOL DISTRICT'S GAP ELIMINATION ADJUSTMENT AS CALCULATED BY THE COMMISSIONER OF EDUCATION PURSUANT TO PARAGRAPH D OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED NINE-A OF THE EDUCATION LAW. FUNDS WITHDRAWN PURSUANT TO THIS SUBDIVISION MAY ONLY BE USED FOR THE PURPOSE OF MAINTAINING EDUCATIONAL PROGRAMMING DURING THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR WHICH OTHERWISE WOULD HAVE BEEN REDUCED AS A RESULT OF SUCH GAP ELIMINATION ADJUSTMENT. GOVERNING BOARDS WHICH MAKE SUCH A WITHDRAWAL SHALL SUBMIT, IN A FORM PRESCRIBED BY THE COMMISSIONER OF EDUCATION, RELEVANT INFORMATION ABOUT THE WITHDRAWAL, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, THE AMOUNT OF SUCH WITHDRAWAL, THE DATE OF WITHDRAWAL, AND THE USE OF SUCH WITHDRAWN FUNDS.

S 6. Subdivision 3 of section 33 of the general municipal law, as added by section 40 of part A of chapter 57 of the laws of 2009, is amended to read as follows:

3. Examinations and report. In addition to the inspection and examination of certain accounts pursuant to this section, the comptroller [by

the end of] DURING the [two thousand eleven--two thousand twelve] TWO THOUSAND NINE--TWO THOUSAND TEN school year, shall also examine for the most recent school year [as] practicable, the employee benefit accrued liability reserve funds of school districts established pursuant to section six-p of this chapter. Such examination shall be for the purpose of determining the amount of funding in the reserve fund, the amount of liabilities against such fund and if there exist funds in the reserve fund which are in excess of the total liabilities of such fund. The comptroller shall notify the school district if such excess funds exist and the dollar value of the excess funding. The comptroller shall also prepare a report on the school districts with excess funds in their employee benefit accrued liability reserve fund and the amount of the excess funding for each district. Such report shall be submitted by July first, two thousand [twelve] TEN to the director of the budget, the chair of the senate finance committee, the chair of the assembly ways and means committee and the commissioner of education.

S 7. Subdivision a of section 50 of part A of chapter 57 of the laws of 2009, amending the education law and other laws relating to special apportionment for salary expenses, is amended to read as follows:

a. Notwithstanding any other provision of law, upon application to the commissioner of education, not sooner than the first day of the second full business week of June, 2010 and not later than the last day of the third full business week of June, 2010, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2010, for salary expenses incurred between April 1 and June 30, 2010, and such apportionment shall not exceed THE SUM OF (I) the deficit reduction assessment of 1990-91 as determined by the commissioner of education, pursuant to paragraph f of subdivision 1 of section 3602 of the education law, as in effect through June 30, 1993, plus (II) 186 percent of such amount for a city school district in a city with a population in excess of 1,000,000 inhabitants [and], plus (III) 209 percent of such amount for a city school district in a city with a population of more than 195,000 inhabitants and less than 219,000 inhabitants according to the latest federal census, PLUS (IV) THE GAP ELIMINATION ADJUSTMENT OF TWO THOUSAND NINE--TWO THOUSAND TEN, AS DETERMINED BY THE COMMISSIONER OF EDUCATION PURSUANT TO PARAGRAPH D OF SUBDIVISION ONE OF SECTION THIRTY-SIX HUNDRED NINE-A OF THE EDUCATION LAW AS IN EFFECT THROUGH JUNE THIRTIETH, TWO THOUSAND TEN, and PROVIDED FURTHER THAT SUCH APPORTIONMENT shall not exceed such salary expenses. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

S 8. Mitigation of educational services impact. Each school district shall use, to the extent applicable, any unappropriated unreserved fund balance to mitigate the impact of the gap elimination adjustment. In addition, any programmatic reductions undertaken by school districts after any unappropriated unreserved fund balance is fully allocated, as a result of the enactment of the gap elimination adjustment shall, to the extent possible, not impact educational services to children. School districts shall report to the commissioner of the state education department, in a manner and form as prescribed by the commissioner, before July 1, 2010 to specify all the budgetary actions taken by each school district due to the enactment of the gap elimination adjustment.

S 9. This act shall take effect immediately.

PART C

Section 1. Paragraph a of subdivision 3 of section 667 of the education law is amended by adding a new subparagraph (vii) to read as follows:

(VII) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPHS (I), (II), (III) AND (VI) OF THIS PARAGRAPH, FOR ANY REMAINING SEMESTER, TRIMESTER, QUARTER OR TERM OF ATTENDANCE DURING THE TWO THOUSAND NINE -- TWO THOUSAND TEN ACADEMIC YEAR, AND FOR EACH ACADEMIC YEAR THEREAFTER, EACH AWARD SHALL BE REDUCED BY A TOTAL OF ONE HUNDRED TWENTY DOLLARS OR BY THE ACTUAL AWARD WHEN SUCH AWARD IS LESS THAN ONE HUNDRED TWENTY DOLLARS. SUCH AWARD REDUCTION SHALL BE APPLIED PROPORTIONATELY TO REDUCE AWARDS FOR EACH SEMESTER, TRIMESTER, QUARTER OR OTHER TERM OF ATTENDANCE DURING WHICH A STUDENT RECEIVES AN AWARD IN THE ACADEMIC YEAR.

S 2. Paragraph b of subdivision 3 of section 667 of the education law is amended by adding a new subparagraph (vi) to read as follows:

(VI) NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH, FOR ANY REMAINING SEMESTER, TRIMESTER, QUARTER OR TERM OF ATTENDANCE DURING THE TWO THOUSAND NINE -- TWO THOUSAND TEN ACADEMIC YEAR, AND FOR EACH ACADEMIC YEAR THEREAFTER, EACH AWARD SHALL BE REDUCED BY A TOTAL OF ONE HUNDRED TWENTY DOLLARS OR BY THE ACTUAL AWARD WHEN SUCH AWARD IS LESS THAN ONE HUNDRED TWENTY DOLLARS. SUCH AWARD REDUCTION SHALL BE APPLIED PROPORTIONATELY TO REDUCE AWARDS FOR EACH SEMESTER, TRIMESTER, QUARTER OR OTHER TERM OF ATTENDANCE DURING WHICH A STUDENT RECEIVES AN AWARD IN THE ACADEMIC YEAR.

S 3. Paragraph c of subdivision 3 of section 667 of the education law is amended by adding a new subparagraph (vi) to read as follows:

(VI) NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH, FOR ANY REMAINING SEMESTER, TRIMESTER, QUARTER OR TERM OF ATTENDANCE DURING THE TWO THOUSAND NINE -- TWO THOUSAND TEN ACADEMIC YEAR, AND FOR EACH ACADEMIC YEAR THEREAFTER, EACH AWARD SHALL BE REDUCED BY A TOTAL OF ONE HUNDRED TWENTY DOLLARS OR BY THE ACTUAL AWARD WHEN SUCH AWARD IS LESS THAN ONE HUNDRED TWENTY DOLLARS. SUCH AWARD REDUCTION SHALL BE APPLIED PROPORTIONATELY TO REDUCE AWARDS FOR EACH SEMESTER, TRIMESTER, QUARTER OR OTHER TERM OF ATTENDANCE DURING WHICH A STUDENT RECEIVES AN AWARD IN THE ACADEMIC YEAR.

S 4. This act shall take effect immediately.

PART D

Section 1. Paragraphs (a), (b) and (f) of subdivision 2 of section 209 of the social services law, paragraphs (a) and (b) as amended by section 3 of part U of chapter 57 of the laws of 2009 and paragraph (f) as added by section 4 of part U of chapter 57 of the laws of 2009, are amended to read as follows:

(a) (I) On and after January first, two thousand nine, for an eligible individual living alone, $761.00; and for an eligible couple living alone, $1115.00.

(II) ON AND AFTER FEBRUARY FIRST, TWO THOUSAND TEN, FOR AN ELIGIBLE INDIVIDUAL LIVING ALONE, $747.36; AND FOR AN ELIGIBLE COUPLE LIVING ALONE, $1099.03.

(b) (I) On and after January first, two thousand nine, for an eligible individual living with others with or without in-kind income, $697.00; and for an eligible couple living with others with or without in-kind income, $1057.00.

(II) ON AND AFTER FEBRUARY FIRST, TWO THOUSAND TEN, FOR AN ELIGIBLE INDIVIDUAL LIVING WITH OTHERS WITH OR WITHOUT IN-KIND INCOME, $687.90; AND FOR AN ELIGIBLE COUPLE LIVING WITH OTHERS WITH OR WITHOUT IN-KIND INCOME, $1044.63.

(f) The amounts set forth in [paragraphs (a)] SUBPARAGRAPH (II) OF PARAGRAPH (A), SUBPARAGRAPH (II) OF PARAGRAPH (B) AND PARAGRAPHS (C) through (e) of this subdivision shall be increased to reflect any increases in federal supplemental security income benefits for individuals or couples which become effective on or after January first, two thousand ten but prior to June thirtieth, two thousand ten.

S 2. This act shall take effect immediately, provided however, that the amendments to paragraph (f) of subdivision 2 of section 209 of the social services law made by section one of this act, shall take effect on the same date and in the same manner as section 4 of part U of chapter 57 of the laws of 2009, takes effect.

PART E

Section 1. Item (ii) of subparagraph (D) of paragraph 5 of subsection (l) of section 3221 of the insurance law, as amended by chapter 502 of the laws of 2007, is amended to read as follows:

(ii) The superintendent shall develop and implement a methodology to [fully] cover the cost to any such group purchaser for providing the coverage required in subparagraph (A) of this paragraph. Such methodology shall be financed from [funds] MONEYS APPROPRIATED from the General Fund that shall be made available to the superintendent for such [purpose] PURPOSES, TO THE EXTENT OF FUNDS AVAILABLE.

S 2. Subparagraph (B) of paragraph 4 of subsection (g) of section 4303 of the insurance law, as amended by chapter 502 of the laws of 2007, is amended to read as follows:

(B) The superintendent shall develop and implement a methodology to [fully] cover the cost to any such group contract holder for providing the coverage required in paragraph one of this subsection. Such methodology shall be financed from moneys APPROPRIATED from the General Fund that shall be made available to the superintendent for such [purpose] PURPOSES, TO THE EXTENT OF FUNDS AVAILABLE.

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

(B) The superintendent shall develop and implement a methodology to [fully] cover the cost to any such group remittance group and group contract holder for providing the coverage required in paragraph one of this subsection. Such methodology shall be financed from moneys APPROPRIATED from the General Fund that shall be made available to the superintendent for such [purpose] PURPOSES, TO THE EXTENT OF FUNDS AVAILABLE.

S 4. This act shall take effect immediately.

PART F

Section 1. Subdivision 2 of section 1975 of the public authorities law, as added by section 1 of part AA of chapter 59 of the laws of 2009, is amended to read as follows:

2. Notwithstanding any provision of law to the contrary, the authority is hereby authorized to contribute [twenty] TWO HUNDRED million dollars to the state treasury to the credit of the general fund.

S 2. Subdivision 1 of section 1977-a of the public authorities law is amended by adding a new paragraph (f) to read as follows:

(F) ADDITIONAL AUTHORIZATION FOR HOUSING. FOR THE PURPOSE OF FINANCING AFFORDABLE HOUSING PROGRAMS OF THE CITY, THE AUTHORITY MAY, IN ADDITION TO THE AUTHORIZATIONS CONTAINED ELSEWHERE IN THIS TITLE, BORROW MONEY BY ISSUING BONDS OR NOTES IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING ONE HUNDRED MILLION DOLLARS PLUS A PRINCIPAL AMOUNT OF BONDS AND NOTES ISSUED (I) TO FUND ANY RELATED DEBT SERVICE FUND, (II) TO PROVIDE CAPITALIZED INTEREST, AND (III) TO PROVIDE FOR FEES AND OTHER CHARGES AND EXPENSES INCLUDING ANY UNDERWRITERS' DISCOUNTS, RELATED TO THE ISSUANCE OF SUCH BONDS OR NOTES, ALL AS DETERMINED BY THE AUTHORITY, EXCLUDING BONDS AND NOTES ISSUED TO REFUND OUTSTANDING BONDS AND NOTES ISSUED PURSUANT TO THIS SECTION.

S 3. This act shall take effect immediately.

PART G

Section 1. Subparagraph (vi) of paragraph (a) of subdivision 2 of section 2807-d of the public health law, as added by section 49 of part B of chapter 58 of the laws of 2009, is amended to read as follows:

(vi) Notwithstanding any contrary provisions of this paragraph or any other provision of law or regulation, for general hospitals the assessment shall be thirty-five hundredths of one percent of each general hospital's gross receipts received from all patient care services and other operating income on a cash basis for periods on and after April first, two thousand nine, for hospital or health-related services, including, but not limited to inpatient services, outpatient services, emergency services, referred ambulatory services and ambulatory surgical services, but not including residential health care facilities services or home health care services, PROVIDED, HOWEVER, THAT FOR THE PERIOD DECEMBER FIRST, TWO THOUSAND NINE THROUGH MARCH THIRTY-FIRST TWO THOUSAND ELEVEN, SUCH ASSESSMENT FOR SUCH SERVICES SHALL BE SEVENTY-FIVE HUNDREDTHS OF ONE PERCENT OF EACH SUCH GENERAL HOSPITAL'S GROSS RECEIPTS, PROVIDED FURTHER, HOWEVER, THAT AMOUNTS IN EXCESS OF THIRTY-FIVE HUNDREDTHS OF ONE PERCENT SHALL BE ASSESSED ONLY WITH REGARD TO GROSS RECEIPTS FOR INPATIENT CARE SERVICES AND OTHER OPERATING INCOME ON A CASH BASIS AND SHALL NOT BE ASSESSED WITH REGARD TO GROSS RECEIPTS FOR OUTPATIENT SERVICES, AND PROVIDED FURTHER, HOWEVER, THAT ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN, SUCH ASSESSMENT SHALL BE REDUCED TO THIRTY-FIVE HUNDREDTHS OF ONE PERCENT.

S 1-a. Subdivision 10 of section 2807-d of the public health law is amended by adding a new paragraph (f) to read as follows:

(F) PROVIDED, HOWEVER, THAT, SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR THE PURPOSES OF DETERMINING RATES OF PAYMENT PURSUANT TO THIS ARTICLE FOR GENERAL HOSPITALS, THE ASSESSMENT IMPOSED PURSUANT TO SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION SHALL, INSOFAR AS SUCH ASSESSMENT IS IN EXCESS OF THIRTY-FIVE HUNDREDTHS OF ONE PERCENT OF EACH SUCH GENERAL HOSPITAL'S GROSS RECEIPTS, BE A REIMBURSABLE COST TO BE REFLECTED AS TIMELY AS PRACTICABLE, AND SUBSEQUENTLY RECONCILED TO ACTUAL COST, IN RATES OF PAYMENT APPLICABLE WITHIN THE ASSESSMENT PERIOD.

S 2. 1. Notwithstanding any provision of law or regulation to the contrary, the commissioner of education, in consultation with the state board for nursing and the state board of pharmacy, shall promulgate guidelines which allow for the prefill of up to a fifteen day supply of medication prescribed by a physician or other authorized practitioner and provided to an individual by a registered professional nurse for individuals receiving home care services ordered by an authorized practitioner and provided under the supervision of a registered professional nurse. Such guidelines shall be promulgated within 30 days of the effective date of this section.

2. The commissioner of education, in consultation with such state boards, shall examine the experiences pursuant to the guidelines established pursuant to this section and, on or before April 1, 2011, recommend to the governor and the legislature any changes as may be necessary to this section.

S 3. 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c of the public health law, subdivision 2-b of section 2808 of the public health law, section 21 of chapter 1 of the laws of 1999, and any other contrary provision of law, in determining rates of payments by state governmental agencies effective for services provided on and after January 1, 2010, for inpatient and outpatient services provided by general hospitals, for inpatient services and adult day health care outpatient services provided by residential health care facilities pursuant to article 28 of the public health law, except for residential health care facilities that provide extensive nursing, medical, psychological and counseling support services to children, for home health care services provided pursuant to article 36 of the public health law by certified home health agencies, long term home health care programs and AIDS home care programs, and for personal care services provided pursuant to section 365-a of the social services law, the commissioner of health shall apply zero trend factor projections attributable to the 2010 calendar year in accordance with paragraph (c) of subdivision 10 of section 2807-c of the public health law, provided, however, that such zero trend factor projections for such 2010 calendar year shall also be applied to rates of payment for personal care services provided in those local social service districts, including New York city, whose rates of payment for such services are established by such local social service districts pursuant to a rate-setting exemption issued by the commissioner of health to such local social service districts in accordance with applicable regulations, and provided further, however, that for rates of payment for assisted living program services provided on and after January 1, 2010, trend factor projections attributable to the 2010 calendar year shall be established at zero percent.

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

S 4. Notwithstanding paragraph (b) of subdivision 2-b and subdivision 2-c of section 2808 of the public health law, section 2 of part D of chapter 58 of the laws of 2009, or any other contrary provision of law, the commissioner of health, with the approval of the director of the budget, shall make such proportional adjustments to rates of payments, as computed pursuant to paragraph (b) of subdivision 2-b of section 2808 of the public health law and as modified by section 2 of part D of chapter 58 of the laws of 2009, for the period December 1, 2009 through March 31, 2010, such that the aggregate total increase in such rates of payment for the period April 1, 2009 through March 31, 2010, shall be reduced from two hundred ten million dollars ($210,000,000) to an amount no greater than fifty-two million five hundred thousand dollars ($52,500,000), provided, however, that the commissioner of health and the director of the budget shall make such further proportional adjustments to such rates of payment for the period April 1, 2010 through

March 31, 2011 as are necessary to ensure that such rates for such period do not, in aggregate, reflect any further net increase in excess of one hundred fifty-seven million five hundred thousand dollars ($157,500,000) from the rates in effect for the preceding state fiscal year, and provided further, however, that, notwithstanding any contrary provision of section 2 of part D of chapter 58 of the laws of 2009, the case mix adjustments authorized pursuant to subparagraph (ii) of paragraph (b) of subdivision 2-b of section 2808 of the public health law and scheduled pursuant to such subparagraph (ii) for January of 2010, shall be implemented in accordance with the provisions of such subparagraph (ii).

S 5. Subparagraph (i) of paragraph (b) of subdivision 2-b of section 2808 of the public health law, as amended by section 3 of part D of chapter 58 of the laws of 2009, is amended to read as follows:

(b) (i) Subject to the provisions of subparagraphs (ii) through (xiv) of this paragraph, for periods on and after April first, two thousand nine through [March thirty-first, two thousand ten] FEBRUARY TWENTY-EIGHTH, TWO THOUSAND ELEVEN the operating cost component of rates of payment shall reflect allowable operating costs as reported in each facility's cost report for the two thousand two calendar year, as adjusted for inflation on an annual basis in accordance with the methodology set forth in paragraph (c) of subdivision ten of section twenty-eight hundred seven-c of this article, provided, however, that for those facilities which do not receive a per diem add-on adjustment pursuant to subparagraph (ii) of paragraph (a) of this subdivision, rates shall be further adjusted to include the proportionate benefit, as determined by the commissioner, of the expiration of the opening paragraph and paragraph (a) of subdivision sixteen of this section and of paragraph (a) of subdivision fourteen of this section, and provided further that the operating cost component of rates of payment for those facilities which did not receive a per diem adjustment in accordance with subparagraph (ii) of paragraph (a) of this subdivision shall not be less than the operating component such facilities received in the two thousand eight rate period, as adjusted for inflation on an annual basis in accordance with the methodology set forth in paragraph (c) of subdivision ten of section twenty-eight hundred seven-c of this article and further provided, however, that rates for facilities whose operating cost component reflects base year costs subsequent to January first, two thousand two shall have rates computed in accordance with this paragraph, utilizing allowable operating costs as reported in such subsequent base year period, and trended forward to the rate year in accordance with applicable inflation factors.

S 6. The opening paragraph and subparagraph (vi) of paragraph (a) of subdivision 2-c of section 2808 of the public health law, as added by section 5 of part D of chapter 58 of the laws of 2009, are amended to read as follows:

Notwithstanding any inconsistent provision of this section or any other contrary provision of law and subject to the availability of federal financial participation, the operating costs of rates of payment by governmental agencies for inpatient services provided by residential health care facilities on and after [April first, two thousand ten] MARCH FIRST, TWO THOUSAND ELEVEN shall be determined in accordance with the following:

(vi) Notwithstanding subparagraph (i) of this paragraph, the operating cost component of the rates, effective [April first, two thousand ten] MARCH FIRST, TWO THOUSAND ELEVEN for the following categories of facilities, as established pursuant to applicable regulations, shall reflect the rates in effect for such facilities on [March thirty-first, two thousand ten,] FEBRUARY TWENTY-EIGHTH, TWO THOUSAND ELEVEN, as adjusted for inflation in accordance with applicable statutes: (A) AIDS facilities or discrete AIDS units within facilities, (B) discrete units for residents receiving care in a long-term inpatient rehabilitation program for traumatic brain injured persons, (C) discrete units providing specialized programs for residents requiring behavioral interventions, (D) discrete units for long-term ventilator dependent residents, and (E) facilities or discrete units within facilities that provide extensive nursing, medical, psychological and counseling support services solely to children. Such rate shall remain in effect until the department, in consultation with representatives of the nursing home industry, as selected by the commissioner, develops a regional pricing or alternative methodology for determining such rates.

S 7. Section 48 of part C of chapter 109 of the laws of 2006, amending the social services law and other laws relating to Medicaid reimbursement rate settings, as amended by section 6 of part D of chapter 58 of the laws of 2009, is amended to read as follows:

S 48. Notwithstanding any contrary provision of law, the commissioner of health shall, by no later than May 15, 2007, establish a workgroup pertaining to Medicaid reimbursement rate-setting for residential health care facilities for future periods, including, but not limited to, the following areas:

(a) operating costs that should be considered allowable in the development of regional prices;

(b) identification of appropriate cost differentials among facilities based on factors including, but not limited to, size, affiliation, location, public versus non-public, facility layout, culture exchange initiatives and labor costs, including the most appropriate mechanism to adjust rates of payment to reflect appropriate cost differentials related to direct care staffing, including adjustments to the direct component of the operating cost component of such rate, establishment of a quality care incentive pool pursuant to subdivision (2-c) of section 2808 of the public health law or other mechanisms;

(c) reimbursement for facilities providing care to specialized populations with specialized care needs;

(d) the relationship between facility spending on various costs and quality of care and patient outcomes;

(e) appropriate regions to be utilized;

(f) the reasons underlying the existing proportion of Medicaid patients to non-Medicaid patients in New York facilities;

(g) issues related to Medicare;

(h) impact of planned rightsizing of the acute care system;

(i) impact of planned rightsizing of nursing home system;

(j) impact of using Medicaid only case mix; and

(k) other issues as determined by the commissioner.

The members of the workgroup shall include department of health staff and representatives of statewide associations representing the residential health care facility industry in New York, organizations representing employees, and, by May thirty-first, two thousand nine, advocates for residential health care facility residents and representatives of regional associations representing the residential health care facility industry in New York. The workgroup shall work in consultation with the assembly and the senate. The commissioner of health shall appoint the chair of the workgroup and designate such employees of the department of health as are reasonably necessary to provide necessary data and support services to the workgroup. The commissioner of health shall submit [an interim] A report summarizing the workgroup's deliberations and the commissioner of health's recommendations to the governor, the temporary president of the senate, the speaker of the assembly, and the minority leaders of the senate and the assembly by [December fifteenth, two thousand nine, and a subsequent report shall be submitted to these individuals no later than February fifteenth, two thousand ten] OCTOBER FIRST, TWO THOUSAND TEN. The workgroup shall continue until December thirty-first, two thousand [ten] ELEVEN to evaluate the implementation of the new system.

S 8. Notwithstanding section 179-f of the state finance law, section 2818 of the public health law, or any other contrary provision of law, upon a determination by the commissioner of health and the director of the budget that state fiscal constraints require a delay in payments made pursuant to contracts entered into pursuant to section 2818 of the public health law, the commissioner of health shall be authorized, with the approval of the state budget director, to delay such payments which are due prior to April 1, 2010, until the later of April 1, 2010 or the enactment of a budget for the 2010-2011 state fiscal year, and such delay shall not result in the payment of interest by the state pursuant to section 179-f of the state finance law or pursuant to any other otherwise applicable law. Such contracts shall otherwise remain in full force and effect.

S 9. Notwithstanding any inconsistent provision of law, rule or regulation, for purposes of implementing the provisions of the public health law and the social services law, references to titles XIX and XXI of the federal social security act in the public health law and the social services law shall be deemed to include and also to mean any successor titles thereto under the federal social security act.

S 10. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of the provisions of sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

S 11. This act shall take effect immediately, provided however that:

1. any rules or regulations necessary to implement the provisions of this act may be promulgated and any procedures, forms, or instructions necessary for such implementation may be adopted and issued on or after the date this act shall have become a law;

2. this act shall not be construed to alter, change, affect, impair or defeat any rights, obligations, duties or interests accrued, incurred or conferred prior to the effective date of this act;

3. the commissioner of health and the superintendent of insurance and any appropriate council may take any steps necessary to implement this act prior to its effective date;

4. notwithstanding any inconsistent provision of the state administrative procedure act or any other provision of law, rule or regulation, the commissioner of health and the superintendent of insurance and any appropriate council is authorized to adopt or amend or promulgate on an emergency basis any regulation he or she or such council determines necessary to implement any provision of this act on its effective date;

5. the provisions of this act shall become effective notwithstanding the failure of the commissioner of health or the superintendent of

insurance or any council to adopt or amend or promulgate regulations implementing this act.

PART H

Section 1. Section 2 of part PP of chapter 56 of the laws of 2009 entitled "Environmental Affairs", relating to providing for the administration of certain funds and accounts related to the 2009-10 budget, is amended by adding a new subdivision 15 to read as follows:

15. $10,000,000 FROM THE ENVIRONMENTAL PROTECTION FUND (078), ENVIRONMENTAL PROTECTION TRANSFER ACCOUNT (01), TO THE GENERAL FUND.

S 2. Section 2 of part PP of chapter 56 of the laws of 2009 entitled "Transportation", relating to providing for the administration of certain funds and accounts related to the 2009-10 budget, is amended by adding two new subdivisions 8 and 9 to read as follows:

8. $90,000,000 FROM THE MASS TRANSPORTATION OPERATING ASSISTANCE FUND (313), METROPOLITAN MASS TRANSIT OPERATING ASSISTANCE ACCOUNT (02), TO THE GENERAL FUND.

9. $5,000,000 FROM THE DEDICATED MASS TRANSPORTATION TRUST FUND (073), NON-MTA CAPITAL PURPOSE ACCOUNT (03), TO THE GENERAL FUND.

S 3. Section 12 of part PP of chapter 56 of the laws of 2009 relating to providing for the administration of certain funds and accounts related to the 2009-10 budget, is amended to read as follows:

S 12. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to [$200] $575 million from the unencumbered balance of any special revenue fund or account, or combination of funds and accounts, to the general fund. The amounts transferred pursuant to this authorization shall be in addition to any other transfers expressly authorized in the 2009-10 budget. Transfers from federal funds, debt service funds, capital projects funds, or the community projects fund are not permitted pursuant to this authorization. The director of the budget shall notify both houses of the legislature in writing prior to initiating transfers pursuant to this authorization.

S 4. Notwithstanding any provision of law to the contrary, the dormitory authority of the state of New York is authorized and directed, upon the request of the director of the budget, to transfer $26,000,000 to the general fund on or before March 31, 2010.

S 5. Notwithstanding any law to the contrary, the insurance department shall finance the annual expenses related to its activities and operations through assessments upon those entities required to pay such assessments pursuant to section 332 of the insurance law. For state fiscal year 2009-10, the total value of the annual assessment will be equal to the total value of the department's enacted appropriations. In such instances where the total value of the annual industry assessment exceeds actual annual expenses of the department's operations and activities, in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $2,800,000 from the unencumbered balance of the special revenue fund (339), insurance department account (B6) to the general fund on or before March 31, 2010.

S 6. Notwithstanding any provision of law, rule or regulation to the contrary, the New York State energy research and development authority is authorized and directed to make a contribution to the state treasury to the credit of the general fund in the amount of $90,000,000 from proceeds collected by the authority from the auction or sale of carbon dioxide emission allowances allocated by the department of environmental conservation under the Regional Greenhouse Gas Initiative on or before March 31, 2010.

If, in any fiscal year, such moneys retained by the authority from the auction or sale of carbon dioxide emission allowances allocated by the department of environmental conservation under the Regional Greenhouse Gas Initiative are deemed insufficient by the director of the division of the budget to meet actual and anticipated disbursements, the comptroller shall at the direction of the director of the division of the budget, transfer from the general fund to the New York State energy research and development authority moneys sufficient to meet such disbursements. Such transfers shall be made only upon certification of need by the director of the division of the budget, with copies of such certification filed with the chairperson of the senate finance committee, the chairperson of the assembly ways and means committee and the state comptroller. The aggregate amount of all transfers to the New York State energy research and development authority shall not exceed $90,000,000 in total.

S 7. Notwithstanding any other provision of the law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized to transfer upon request of the director of the budget, $29,000,000 on or before March 31, 2010, from the city university special revenue fund (377), city university stabilization account (A1), to the general fund.

S 8. This act shall take effect immediately; provided that the amendments to sections 2 and 12 of part PP of chapter 56 of the laws of 2009 made by sections one, two and three of this act shall not affect the repeal of such sections and shall be deemed repealed therewith.

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

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