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

S. 249--A A. 162--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

AN ACT to amend 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 amend chapter 57 of the laws of 2007 relating to the provision of funding of certain community projects, in relation to adjusting certain funding therefor; and 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 (Part A); 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 B); to amend the executive law, in relation to authorizing the transfer of money (Part C); to amend chapter 497 of the laws of 2008, relating to the transfer of certain monies from specified accounts to the general fund (Part D); to provide for the consideration of grant applications by the council on the arts in state fiscal year 2009-2010 (Part E); to amend chapter 56 of the laws of 2008 amending the general municipal law relating to reports on the financial condition of municipalities and providing aid and incentives to the cities of Rochester, Buffalo, Lackawanna, Long Beach, Syracuse,

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

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White Plains, Yonkers and Rensselaer, in relation to aid and incentives for municipalities (Part F); in relation to the transfer of funds from the banking department account (Part G); in relation to the transfer of funds from the insurance department account (Part H); and to amend chapter 58 of the laws of 2008 amending the social services law and the public health law relating to adjustments of rates and the public health law, in relation to hospitals and the distribution of monies (Part I)

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 saving adjustments to the state fiscal plan. Each component is wholly contained within a Part identified as Parts A through I. 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. Subdivision 7 of section 3 of part RR of chapter 57 of the laws of 2008 entitled "Family Assistance", relating to providing for the administration of certain funds and accounts related to the 2008-2009 budget, is amended to read as follows:

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

S 2. Section 11-a of part RR of chapter 57 of the laws of 2008, relating to providing for the administration of certain funds and accounts related to the 2008-2009 budget, is amended to read as follows:

S 11-a. Notwithstanding any provision of law to the contrary, the power authority of the state of New York, as deemed feasible and advisable by its trustees, is authorized to make contributions to the state treasury to the credit of the general fund as follows: for the fiscal year commencing April 1, 2008, a total of [$60,000,000] $361,000,000, not less than $50,000,000 of which will be paid within thirty days of the enactment of the state budget for such fiscal year, NOT LESS THAN $119,000,000 SHALL BE PAID BY JANUARY 30, 2009 AND $182,000,000 SHALL BE PAID BY MARCH 27, 2009; for the fiscal year commencing April 1, 2009, a total of [$35,000,000] $210,000,000, not less than [$25,000,000] $103,000,000 of which will be paid within [thirty] ONE HUNDRED EIGHTY days of the enactment of the state budget for such fiscal year[; and for the fiscal year commencing April 1, 2010, a total of $35,000,000, not less than $25,000,000 of which will be paid within thirty days of the enactment of the state budget for such fiscal year] AND $107,000,000 SHALL BE PAID PRIOR TO MARCH 26, 2010.

S 3. Part RR of chapter 57 of the laws of 2008, relating to providing for the administration of certain funds and accounts related to the

2008-2009 budget, is amended by adding a new section 50-a to read as follows:

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

S 4. Subdivision (a) of section 1 of part P of chapter 57 of the laws of 2007, relating to the provision of funding of certain community projects, as amended by section 1 of Part MM of chapter 59 of the laws of 2008, is amended to read as follows:

(a) [Forty-five] FIFTEEN million dollars [($45,000,000)] ($15,000,000) for the period April 1, 2008 through March 31, 2009, as follows: [twenty-two] SEVEN million five hundred thousand dollars [($22,500,000)] ($7,500,000) to account AA; and [twenty-two] SEVEN million five hundred thousand dollars [($22,500,000)] ($7,500,000) to account CC. Such transfers shall be made in accordance with section 99-d of the state finance law, as added by chapter 474 of the laws of 1996, as amended.

S 5. Subdivisions 3 and 4 of section 3 of part RR of chapter 57 of the laws of 2008 entitled "Environmental Affairs", relating to providing for the administration of certain funds and accounts related to the 2008-2009 budget, is amended to read as follows:

3. [$125,000,000] $175,000,000 from the environmental protection fund (078), environmental protection transfer account (01), to the general fund.

4. [$75,000,000] $100,000,000 from the environmental protection fund (078), environmental protection transfer account (001), to the general fund.

S 6. This act shall take effect immediately; provided, however, that the amendments to section 3 of Part RR of chapter 57 of the laws of 2008 made by sections one and five of this act shall expire on the same date as such section expires and shall be deemed repealed therewith.

PART B

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

PART NN

Section 1. Notwithstanding any other provision of law, and provided that the reserves in the project pool insurance-account of the mortgage insurance fund created pursuant to section 2429-b of the public authorities law are sufficient to attain and maintain the credit rating (as determined by the agency) required to accomplish the purposes of such account, the board of directors of the state of New York mortgage agency, shall, as soon as practicable but not later than July 1, 2008, transfer a sum not to exceed one hundred million dollars from the project pool insurance account of the mortgage insurance fund as follows: a sum not to exceed fifty-four million dollars to the New York state housing finance agency for its Mitchell Lama Rehabilitation and Preservation Program and its All Affordable Program; a sum not to exceed six million dollars to the Long Island Housing Partnership for its Homeownership and Economic Stabilization for Long Island Program; a sum not to exceed twenty-five million dollars to the New York state housing

trust fund corporation (the "corporation") for the provision of subprime foreclosure prevention services as provided in section two of this act; and a sum not to exceed fifteen million dollars to the corporation for the greater Catskills flood remediation program as provided in section three of this act.

S 2. Within the amounts transferred to the corporation pursuant to section one of this act for subprime foreclosure prevention services, the corporation shall, in consultation with the division of housing and community renewal, the banking department and the office of court administration, develop and administer a subprime foreclosure prevention services program which shall provide assistance related to foreclosure prevention to homeowners who entered into subprime or unconventional mortgages, including grants and aid to non-profit organizations to provide counseling, mediation, legal representation, and negotiation on behalf of borrowers facing default or foreclosure, training and support for counselors, mediators, and lawyers regarding such assistance to homeowners, and credit counseling. Such assistance shall only be offered to borrowers who are natural persons who hold a subprime or unconventional home loan that is secured by a mortgage or deed of trust on real estate upon which there is located a structure or structures intended principally for occupancy of from one to four families and which is occupied by the borrower as the borrower's principal dwelling and is located in this state. For purposes of this section, "subprime or unconventional mortgage" shall mean: for a first lien loan, one that has an annual percentage rate of three or more percentage points above the yield on treasury securities of comparable maturity measured as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender; for a subordinate lien loan, one that has an annual percentage rate of five or more percentage points above the yield on treasury securities of comparable maturity measured as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender; or a mortgage that is a "nontraditional mortgage" as such term is described in the "Interagency Guidance on Nontraditional Mortgage Product Risks" issued September 29, 2006, and published in 71 Federal Register, 58609, on October 4, 2006, as updated. The corporation shall develop application procedures for non-profit agencies to use to apply for funds to carry out the provisions of this section, criteria for evaluating such applications, including criteria that would encourage collaborative applications by multiple non-profit agencies, and criteria for use by the non-profits that receive assistance pursuant to this section to rank applications for assistance from eligible homeowners for the provisions of subprime foreclosure prevention services, and which shall consider the need for assistance and opportunity to successfully restructure the applicable mortgage to allow the homeowner to continue to occupy the home. The corporation, in consultation with the division of housing and community renewal, the banking department, and the office of court administration, shall submit a report to the governor, the speaker of the assembly, and the temporary president of the senate on or before December 31, 2008, on the implementation of this act. Such report shall include, but not be limited to, for each provider receiving funds under this act, a description of such provider's contract amount, the specific foreclosure prevention activities performed by such provider, and the number of persons and households served by each provider and the number of requests for assistance that could not be granted. The report shall also include an analysis of mort-

gage defaults in the state, the causes of such defaults, the unmet needs that exist in the state due to defaults on loans, foreclosures of homes, rates of foreclosures, the need for direct assistance to homeowners, and the ability of homeowners to successfully comply with mortgage terms or negotiate changes in their mortgages in order to remain in their homes.

S 3. Within the amounts transferred to the corporation pursuant to section one of this act for the greater Catskills flood remediation program, the corporation shall provide funds to the counties of Broome, Chenango, Delaware, Herkimer, Montgomery, Orange, Otsego, Schoharie, Sullivan, Tioga and Ulster, upon application by a county and within the amounts available for disbursement to such county, to enable the counties to purchase and demolish one or two family homes that have been certified by the local building inspector and county emergency management director, to the satisfaction of the corporation, as having been subject to one or more incidents of flooding since April 1, 2004 and as likely to be subject to a future flood incident that would cause substantial damage thereto. Any application by a county for disbursement of funds under this act shall demonstrate, to the satisfaction of the corporation, that: (1) the home is occupied as the primary residence of an owner with a family income of up to one hundred fifty percent of the area median income as defined by the United States department of housing and urban development, provided, however, that an otherwise eligible home shall be eligible for purchase under this act if the current owner can demonstrate that the home was occupied as the owner's primary residence prior to a flood event that rendered the home unsuitable for habitation; (2) the current appraised value of the home does not exceed two hundred fifty thousand dollars and the purchase price for the home will not exceed the appraised value less the amount of any property casualty insurance or disaster relief payments received by the owner as compensation for damage incurred in a flood incident; (3) all recorded liens or other encumbrances on the home will be released at closing; (4) the county provides assurances that the home will be condemned and the property will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, flood mitigation or wetlands management practices; and (5) disbursements under this section shall be limited to the costs of acquisition of eligible homes, including legal, appraisal, recording and other transaction costs, and the costs of demolition. In selecting homes for purchase pursuant to this act, each county shall give preference to homes with a current appraised value of less than one hundred fifty thousand dollars and to homes that have been subject to two or more incidents of flooding since April 1, 2004. The corporation shall establish policies and procedures consistent with this section, which shall include county reporting requirements, and shall report to the governor, the speaker of the assembly, the temporary president of the senate and the director of the division of the budget on or before December 31, 2008 regarding the implementation of this section. Of the amounts transferred to the corporation pursuant to section one of this act, the amounts disbursed to counties pursuant to this section shall not exceed the following amounts: Broome, $750,000; Chenango, $750,000; Delaware, $2,000,000; Herkimer, $750,000; Montgomery, $750,000; Orange, $2,000,000; Otsego, $750,000; Schoharie, $750,000; Sullivan, $3,750,000; Tioga, $750,000; and Ulster, $2,000,000.

S 4. NOTWITHSTANDING SECTIONS ONE AND THREE OF THIS ACT, THE JANUARY 1, 2009 UNDISBURSED BALANCES OF THE MITCHELL-LAMA REHABILITATION AND PRESERVATION PROGRAM AND THE ALL AFFORDABLE PROGRAM, THE HOMEOWNERSHIP AND ECONOMIC STABILIZATION FOR LONG ISLAND PROGRAM, AND THE GREATER

CATSKILLS FLOOD REMEDIATION PROGRAM SHALL BE TRANSFERRED TO THE GENERAL FUND NO LATER THAN MARCH 31, 2009.

S 5. This act shall take effect immediately.

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

(a) Subject to the provisions of chapter fifty-nine of the laws of two thousand, in order to enhance and encourage the promotion of housing programs and thereby achieve the stated purposes and objectives of such housing programs, the agency shall have the power and is hereby authorized from time to time to issue negotiable housing program bonds and notes in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed (and not previously reimbursed) pursuant to law or any prior year making capital appropriations or reappropriations for the purposes of the housing program; provided, however, that the agency may issue such bonds and notes in an aggregate principal amount not exceeding two billion [two hundred ninety-one] THREE HUNDRED TWENTY-TWO million nine hundred forty-one thousand dollars, plus a principal amount of bonds issued to fund the debt service reserve fund in accordance with the debt service reserve fund requirement established by the agency and to fund any other reserves that the agency reasonably deems necessary for the security or marketability of such bonds and to provide for the payment of fees and other charges and expenses, including underwriters' discount, trustee and rating agency fees, bond insurance, credit enhancement and liquidity enhancement related to the issuance of such bonds and notes. No reserve fund securing the housing program bonds shall be entitled or eligible to receive state funds apportioned or appropriated to maintain or restore such reserve fund at or to a particular level, except to the extent of any deficiency resulting directly or indirectly from a failure of the state to appropriate or pay the agreed amount under any of the contracts provided for in subdivision four of this section.

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

PART C

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

S 64. Costs recovered. Costs recovered by the attorney-general may be applied by him in payment of the expenses incurred by him in the action or proceeding in which they are received, or of any expenditure which he is authorized to incur not otherwise provided for. He shall, at the close of each fiscal year, render to the comptroller an account of such costs received, with vouchers of such expenditures. DURING THE FISCAL YEAR, THE COMPTROLLER IS AUTHORIZED TO TRANSFER ANY AMOUNT AVAILABLE WITHIN THE ACCOUNT DEDICATED FOR THIS PURPOSE TO THE GENERAL FUND, UPON THE REQUEST OF THE DIRECTOR OF THE BUDGET. IN THE EVENT INSUFFICIENT CASH REMAINS IN SUCH ACCOUNT TO MEET EXPENDITURES AGAINST AVAILABLE APPROPRIATIONS FROM SUCH ACCOUNT, THE COMPTROLLER IS AUTHORIZED TO TRANSFER THE AMOUNTS NECESSARY TO MEET SUCH EXPENDITURES FROM THE GENERAL FUND; PROVIDED HOWEVER THAT IN NO EVENT SHALL THE CUMULATIVE VALUE OF ANY SUCH TRANSFERS FROM THE GENERAL FUND MADE TO SUCH ACCOUNT WITHIN A SINGLE FISCAL YEAR EXCEED TEN PERCENT OF THE VALUE OF THE APPROPRIATIONS MADE IN SUCH FISCAL YEAR FROM SUCH ACCOUNT OR THE CUMULATIVE BALANCE OF TRANSFERS FROM THE ACCOUNT TO THE GENERAL FUND. THE COMPTROLLER SHALL

ESTABLISH SUCH ACCOUNTS AND RECORDS AS ARE NECESSARY TO PROVIDE AN ACCURATE ACCOUNTING AND REPORTING OF THE TRANSFERS TO OR FROM THE GENERAL FUND.

S 2. This act shall take effect immediately.

PART D

Section 1. Section 2 of part B of chapter 497 of the laws of 2008, relating to the transfer of certain monies from specified accounts to the general fund, is amended to read as follows:

S 2. Notwithstanding any other provision of law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer upon request of the director of the budget, [$40,000,000] $65,000,000 on or before March 31, 2009, and $20,000,000 on or before March 31, 2010, from the miscellaneous special revenue fund (330), statewide public safety communication account (LZ) to the general fund.

S 2. This act shall take effect immediately.

PART E

Section 1. Notwithstanding any other section of law to the contrary, in state fiscal year 2009-10, prior to considering new applications for funding from 2009-10 appropriations, the council on the arts shall consider applications for grants from those organizations whose applications for funding from 2008-09 appropriations were not fully acted upon by the council in state fiscal year 2008-09. In all such cases, the council on the arts shall continue to follow established processes for grant review and approval.

S 2. This act shall take effect immediately and shall expire and be deemed repealed September 1, 2010.

PART F

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

S 11. 1. Notwithstanding any other law to the contrary, for the state fiscal year beginning April 1, 2009, and in each state fiscal year thereafter, twenty million SIX HUNDRED FORTY THOUSAND dollars of aid and incentives for municipalities otherwise due and payable to the city of Rochester on or before March 31 shall be paid on or before June 30 in such fiscal year upon written request by the chief elected official of such city to the director of the budget, provided such request is made no later than April 1, 2009.

2. Notwithstanding any other law to the contrary, for the state fiscal year beginning April 1, 2009, and in each state fiscal year thereafter, ten million FIVE HUNDRED FORTY-FOUR THOUSAND EIGHT HUNDRED FIVE dollars of aid and incentives for municipalities otherwise due and payable to the city of Buffalo on or before March 31 shall be paid on or before June 30 in such fiscal year upon written request by the chief elected official of such city to the director of the budget, provided such request is made no later than April 1, 2009.

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

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

5. Notwithstanding any other law to the contrary, for the state fiscal year beginning April 1, 2009, and in each state fiscal year thereafter, five million TWO HUNDRED FORTY-TWO THOUSAND NINE dollars of aid and incentives for municipalities otherwise due and payable to the city of Syracuse on or before March 31 shall be paid on or before June 30 in such fiscal year upon written request by the chief elected official of such city to the director of the budget, provided such request is made no later than April 1, 2009.

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

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

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

S 2. This act shall take effect immediately.

PART G

Section 1. Notwithstanding any law to the contrary, the banking department shall finance the annual expenses related to its activities and operations through assessments on all regulated entities of the department. For state fiscal year 2008-09, 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 the 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 $6 million from the unencumbered balance of the banking department account (339.A5) to the general fund in state fiscal year 2008-09.

S 2. This act shall take effect immediately.

PART H

Section 1. Notwithstanding any law to the contrary, the insurance department shall finance the annual expenses related to its activities and operations through assessments on all regulated entities of the department. For state fiscal year 2008-09, 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 the 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 $4.5 million from the unencumbered balance of the insurance department account (339.B6) to the general fund in state fiscal year 2008-09.

S 2. This act shall take effect immediately.

PART I

Section 1. Section 11 of part C of chapter 58 of the laws of 2008 amending the social services law and the public health law relating to adjustments of rates, as amended by section 4 of part F of chapter 497 of the laws of 2008, is amended to read as follows:

S 11. 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, but subject to subparagraph (iii) of paragraph (b) of subdivision 33 of section 2807-c of the public health law, in determining rates of payments by state governmental agencies effective for services provided on and after April 1, 2008, 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 and long term home health care programs, other than for services provided to home care patients diagnosed with AIDS as determined by applicable regulations, and personal care services provided pursuant to paragraph (e) of subdivision two of section 365-a of the social services law, the commissioner of health shall apply a trend factor projection equal to sixty-five percent of the otherwise applicable trend factor projection attributable to the period January 1, 2008 through December 31, 2008 in accordance with paragraph (c) of subdivision 10 of section 2807-c of the public health law, provided, however, that for rates of payment effective for services provided on and after [September 10, 2008] JANUARY 1, 2009, the final trend factor projections attributable to the 2008 calendar year period shall be further adjusted such that any

increase to the average trend factor projections for the period April 1, 2008 through December 31, 2008 shall be reduced, on an annualized basis, by one and three tenths percentage points AND PROVIDED FURTHER, HOWEVER, NO RETROACTIVE ADJUSTMENT TO SUCH 2008 TREND FACTOR PROJECTION SHALL BE MADE FOR THE PERIOD APRIL 1, 2008 THROUGH DECEMBER 31, 2008 PURSUANT TO SUBPARAGRAPH 3 OF PARAGRAPH (C) OF SUBDIVISION 10 OF SECTION 2807-C OF THE PUBLIC HEALTH LAW.

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

(i) Subject to the provisions of subparagraphs (ii) through (vi) of this paragraph, for the two thousand seven rate period the operating cost component of rates of payment shall reflect the operating cost component of rates effective for October first, two thousand six, as adjusted for inflation in accordance with paragraph (c) of subdivision ten of section twenty-eight hundred seven-c of this article; and for the JANUARY FIRST, two thousand eight THROUGH MARCH THIRTY-FIRST, TWO THOUSAND NINE rate period the operating cost component of rates of payment shall reflect the operating cost component of rates effective for December thirty-first, two thousand six, as adjusted for inflation in accordance with paragraph (c) of subdivision ten of section twenty-eight hundred seven-c of this article.

S 3. Subparagraph (i) of paragraph (b) of subdivision 2-b of section 2808 of the public health law, as added by section 47 of part C of chapter 109 of the laws of 2006, is amended to read as follows:

(i) Subject to the provisions of subparagraphs (ii) through (xiv) of this paragraph, for periods on and after [January] APRIL first, two thousand nine 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 4. Subparagraphs (xiii), (xiv) and (xv) of paragraph (a) of subdivision 6 of section 2807-s of the public health law, as added by section 15 of part B of chapter 58 of the laws of 2008, are amended to read as follows:

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

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

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

S 5. Paragraphs (g), (h), (i), and (i-1) of subdivision 1 of section 2807-v of the public health law, as amended by section 5 of part B of chapter 58 of the laws of 2008, are amended to read as follows:

(g) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the health maintenance organization direct pay market program established pursuant to sections forty-three hundred twenty-one-a and forty-three hundred twenty-two-a of the insurance law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to thirty-five million dollars for the period January first, two thousand through December thirty-first, two thousand of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(ii) up to thirty-six million dollars for the period January first, two thousand one through December thirty-first, two thousand one of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(iii) up to thirty-nine million dollars for the period January first, two thousand two through December thirty-first, two thousand two of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(iv) up to forty million dollars for the period January first, two thousand three through December thirty-first, two thousand three of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(v) up to forty million dollars for the period January first, two thousand four through December thirty-first, two thousand four of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(vi) up to forty million dollars for the period January first, two thousand five through December thirty-first, two thousand five of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(vii) up to forty million dollars for the period January first, two thousand six through December thirty-first, two thousand six of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(viii) up to forty million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law; AND

(ix) up to forty million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight of which fifty per centum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty per centum shall be allocated to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law[;

(x) up to forty million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-two-a of the insurance law;

(xi) up to forty million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, of which fifty percentum shall be allocated to the program pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum shall be allocated pursuant to section four thousand three hundred twenty-two-a of the insurance law; and

(xii) up to ten million dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, of which fifty percentum shall be allocated pursuant to section four thousand three hundred twenty-one-a of the insurance law and fifty percentum shall be allocated pursuant to section four thousand three hundred twenty-two-a of the insurance law].

(h) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the healthy New York individual program established pursuant to sections four thousand three hundred twenty-six and four thousand three hundred twenty-seven of the insurance law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to six million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

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

(iii) up to five million one hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;
(iv) up to twenty-four million six hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;
(v) up to thirty-four million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;
(vi) up to fifty-four million eight hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;
(vii) up to sixty-one million seven hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; AND
(viii) up to one hundred three million seven hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight[;
(ix) up to one hundred thirty-one million two hundred fifty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;
(x) up to one hundred eighty-one million two hundred fifty thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and
(xi) up to forty-five million three hundred twelve thousand five hundred dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven].
(i) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the healthy New York group program established pursuant to sections four thousand three hundred twenty-six and four thousand three hundred twenty-seven of the insurance law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:
(i) up to thirty-four million dollars for the period January first, two thousand one through December thirty-first, two thousand one;
(ii) up to seventy-seven million dollars for the period January first, two thousand two through December thirty-first, two thousand two;
(iii) up to ten million five hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;
(iv) up to twenty-four million six hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;
(v) up to thirty-four million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;
(vi) up to fifty-four million eight hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;
(vii) up to sixty-one million seven hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; AND
(viii) up to one hundred three million seven hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight[;

(ix) up to one hundred thirty-one million two hundred fifty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(x) up to one hundred eighty-one million two hundred fifty thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(xi) up to forty-five million three hundred twelve thousand five hundred dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven].

(i-1) Notwithstanding the provisions of paragraphs (h) and (i) of this subdivision, the commissioner shall reserve and accumulate up to two million five hundred thousand dollars annually for the periods January first, two thousand four through December thirty-first, two thousand six, one million four hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, two million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, [two million dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, two million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, and five hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven] from funds otherwise available for distribution under such paragraphs for the services and expenses related to the pilot program for entertainment industry employees included in subsection (b) of section one thousand one hundred twenty-two of the insurance law, and an additional seven hundred thousand dollars annually for the periods January first, two thousand four through December thirty-first, two thousand six, an additional three hundred thousand dollars for the period January first, two thousand seven through June thirtieth, two thousand seven for services and expenses related to the pilot program for displaced workers included in subsection (c) of section one thousand one hundred twenty-two of the insurance law.

S 6. This act shall take effect immediately; provided that the amendments to section 2807-s of the public health law made by section four of this act shall not affect the expiration of such section and shall be deemed expired therewith; and the amendments to paragraph (i-1) of subdivision 1 of section 2807-v of the public health law made by section five of this act shall not affect the repeal of such paragraph 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 I of this act shall be as specifically set forth in the last section of such Parts.